



# SAVING HOMES, BUILDING UNDERSTANDING:

| An Evaluation of the Eight Foreclosure  
Mediation Programs Funded by the  
| Illinois Attorney General

**1<sup>st</sup> Judicial Circuit**

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# SAVING HOMES, BUILDING UNDERSTANDING:

## An Evaluation of the Eight Foreclosure Mediation Programs Funded by the Illinois Attorney General

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This evaluation was conducted by Resolution Systems Institute (RSI). Funding for the evaluation and the mediation programs it studied was provided by the Office of Illinois Attorney General Lisa M. Madigan with funds received through the National Mortgage Settlement.

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## INTRODUCTION

In 2013, the Office of Illinois Attorney General Lisa M. Madigan used funds received from a settlement with lenders that had allegedly engaged in fraudulent loan servicing and foreclosure practices to provide grants for the development, administration and evaluation of eight foreclosure mediation programs. Because Illinois is a judicial foreclosure state, the funded programs were to be established in the courts and administered by three non-profit grant recipients: Dispute Resolution Institute, Inc. (DRI) in Carbondale, Resolution Systems Institute (RSI) in Chicago and the University of Illinois College of Law Community Preservation Clinic (U of I) in Champaign. The 1<sup>st</sup> Judicial Circuit program is one of the eight programs that was funded.

As part of the grant, Resolution Systems Institute conducted two comprehensive evaluations of all the programs funded by the Attorney General, both of which can be found on the Resolution Systems Institute website. In 2015, RSI conducted a [formative evaluation](#) of the six foreclosure mediation programs that were launched in 2013 and 2014. In 2016, two more programs were launched, including the 1<sup>st</sup> Circuit. All eight programs were included in the [final evaluation](#), conducted in 2018, which assessed program outcomes and compared each of the eight programs to the others. This is an excerpt of the full 2018 evaluation.

The evaluation of the 1<sup>st</sup> Circuit program used data from its launch on April 1, 2016, through December 2017. The evaluation looked at the percentage of homeowners who had a foreclosure filed against them who contacted the program, the percentage of homeowners who entered the program, the percentage who completed the program and, finally, the percentage who were able to either save their homes or gracefully exit them. It also examined the factors that contributed to program performance.

The evaluation found that the 1<sup>st</sup> Circuit program excelled at recruiting homeowners into the program and in helping them to save their homes once they decided to participate. Homeowners who appeared for the initial intake conference said they learned a lot about their options and how to work with their lender, indicating that even those who didn't continue on with the program received valuable information. Despite the program's good results, it was not able to continue on after the grant funding ended on May 31, 2018.

NOTE: Statistical tables can be found in the [full evaluation](#) of all the programs.

# EVALUATION SUMMARY

## 1<sup>ST</sup> CIRCUIT: 2016 - 2017

### EVALUATION OF THE EIGHT FORECLOSURE MEDIATION PROGRAMS FUNDED BY THE ILLINOIS ATTORNEY GENERAL

#### THE PROGRAM PROCESS:

The homeowners were told to appear for their initial intake conference. Once they appeared, they were considered to be participating in the program, if they were eligible. The program coordinator then facilitated sessions between the homeowners, the lender representative and the lender attorney for packet submission, document exchange and discussion of the homeowners' options.

## PROGRAM IMPACT

PROGRAMS HAD A POSITIVE IMPACT ON HOMEOWNERS,  
LENDERS AND THE COURT BY PROVIDING INFORMATION  
AND HELPING HOMEOWNERS AVOID FORECLOSURE

# 263

Homeowners helped,  
61% of all foreclosures  
filed

# 66

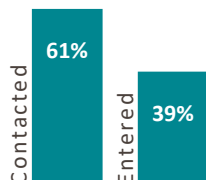
Foreclosures avoided,  
16% of all foreclosures  
filed

# 55

Homes saved,  
13% of all foreclosures  
filed

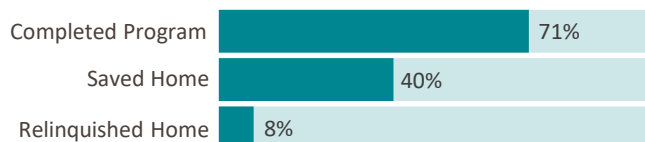
## PARTICIPATION

61% of homeowners facing  
foreclosure **contacted the  
program** and 39% **participated**



## OUTCOMES

3/4 of homeowners **completed the program**  
1/3 of participating homeowners **saved their home**



## SUSTAINABILITY

The 1<sup>st</sup> Circuit **did not  
successfully develop a  
plan** to keep the program  
running after the end of the  
grant funding

## PARTICIPANT EXPERIENCE

HOMEOWNERS IN PRE-MEDIATION FELT THEY GAINED IMPORTANT  
INFORMATION AND THAT THEY WERE TREATED FAIRLY AND WITH RESPECT

#### Homeowners better understood...



#### Homeowners felt they were...



# 9/10

Homeowners were  
**satisfied with their  
experience**

**"They were very helpful and  
personable...They gave me  
an understanding to how  
things work and the  
foreclosure process."**

- Homeowner after initial  
intake conference

# 1<sup>ST</sup> JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM

Alexander, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union and Williamson Counties

## OVERVIEW

The 1<sup>st</sup> Judicial Circuit Foreclosure Mediation Program was launched in April 2016 and ended on May 31, 2018. This evaluation looks at the program outcomes for April 2016 – December 2017.

<b>Launch Date</b>	April 1, 2016
<b>Program Size</b>	113 homeowners entered the program in its only full year
<b>Type</b>	One-step entry <sup>1</sup>
<b>Homeowner Entry Process</b>	Attend initial intake conference
<b>Intake</b>	By program coordinator at initial intake conference
<b>Pre-Mediation</b>	3 pre-mediation/status sessions to complete loan modification packet and facilitate document exchange, but more allowed at the discretion of the administrator
<b>Mediation</b>	3 mediation sessions allowed by rule
<b>Remain in Program During TPP?<sup>2</sup></b>	Yes
<b>Timing of Foreclosure Stay</b>	Date of service of process until return to court; if parties agree to TPP, stay remains until end of trial period
<b>Homeowner Cost</b>	None
<b>Lender Additional Filing Fee</b>	\$50
<b>Mediator Payment</b>	\$150/case
<b>Program Staff</b>	1 program administrator
<b>Program Rule</b>	<a href="#">Article IX: Mediation – Residential Mortgage Foreclosure</a>

<sup>1</sup> One-step entry models require the homeowners to take only one action to enter the program.

<sup>2</sup> Trial payment plan, otherwise known as a temporary loan modification. The homeowners must make timely payments during the TPP in order to obtain a permanent loan modification.

## **Distinguishing Features of the Program**

The following features differentiate this program from others in this evaluation:

- The lenders<sup>3</sup> scheduled the initial intake conference for the homeowners when they contacted the Circuit Clerk to file a foreclosure case
- The program had a one-step entry process: the homeowners needed only appear for their initial intake conference to participate
- No housing counselors were available in this area, which means that no homeowners were helped by a housing counselor; the program administrator took on some of the housing counselor tasks
- The lender representative was required to participate in all pre-mediation sessions, along with the lender attorney; both could participate by phone
- By rule, mediations were to occur only when homeowners wanted to explore relinquishment options
- The program served nine counties

## **Important Findings**

### **The program helped 263 homeowners and saved 55 homes**

The program provided 263 homeowners with, at minimum, an orientation about the foreclosure process, the mediation program, and resources available to them, along with a meeting with the program coordinator to discuss their options and next steps. Of those 263, 55 (21%) saved their homes.

### **64% of homeowners facing foreclosure were helped by the program**

Almost two-thirds of homeowners who had foreclosures filed against them appeared for the initial intake conference, the largest proportion of any Attorney General-funded program. At the conference, they received information about their options and the foreclosure mediation process.

### **16% of homeowners avoided foreclosure, the third most of any program**

The high participation rate led to a high percentage of homeowners who had foreclosures filed against them being able to avoid those foreclosures. More than 80% of those who avoided foreclosure were able to save their home. The rest reached an agreement to gracefully exit their home.<sup>4</sup>

### **48% of homeowners who participated in the program avoided foreclosure; 40% saved their homes**

Homeowners who entered the program by attending the first pre-mediation session had an almost 50% chance of avoiding foreclosure, with 40% saving their home and another 8% coming to agreement with their lender to gracefully exit their home.

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<sup>3</sup> The term “lender” will be used throughout to denote the lender or servicer with whom the mortgage resides.

<sup>4</sup> With a graceful exit or relinquishment option, homeowners avoid foreclosure, while transitioning out of the home.



**Homeowners had a good experience with the program and felt they gained a greater understanding of the process**

Homeowners who attended their initial intake conference believed they learned a lot about their options and how to work with their lender. They felt respected and treated fairly, and left being very satisfied with their experience.

**The program was not able to continue beyond the grant funding**

The 1<sup>st</sup> Circuit is the only court that did not find a way to make its foreclosure mediation program self-sustaining.

## PROGRAM DESCRIPTION AND PROCEDURES

**What Need Was the Program Designed to Meet?**

According to the court, the foreclosure mediation program was “designed to alleviate the burden of costs and expenses to lenders, borrowers and taxpayers caused by residential mortgage foreclosures...The Program aims to keep families in homes and prevent vacant and abandoned homes that negatively impact property values and destabilize neighborhoods. It promotes greater efficiency in the administration of justice by reduction in the backlog of court cases in the lengthy foreclosure process.”

**Program Administration**

This program ended on May 31, 2018. While grant-funded, it was administered by Dispute Resolution Institute, Inc., which had a full-time program coordinator manage the program and conduct all intake and pre-mediation sessions. Land of Lincoln Legal Services was available to provide legal services, though in practice, the agency helped few homeowners. The program had a roster of private mediators trained in foreclosure issues by Resolution Systems Institute. The mediators conducted formal mediations if a lender rejected any retention options and the homeowners wanted to discuss relinquishment options. Mediators were paid a flat \$150 fee per case.

**Eligible Cases**

All residential mortgage foreclosure cases involving primary residences were eligible for the program, with the exception of those in which the mortgagee had filed bankruptcy or was deceased.

**Notification and Outreach**

Homeowners received information about the program with the notice of mediation that accompanied their summons, which also told them they were required to attend the initial intake conference.

Soon after the launch of the program, the program staff sent out a press release to announce the program. They also held meetings with the local bar associations. In addition, the program provided flyers to the foreclosure judges in each county.

## **Entry Process**

Prior to filing a foreclosure case, the lender attorney contacted the court clerk to file the foreclosure and schedule the initial intake conference. This session was required to be held between 30 and 45 days from the date of summons. The lender attorney then served the homeowners with the summons, which included the date they were required to appear for the initial intake conference and an informational flyer about the mediation program. If the homeowners appeared on the scheduled date, they entered the program. Intake conferences were held in the courthouse for each county once a month.

The foreclosure process was stayed until the homeowners either did not show up for the initial intake process or the case was returned to court.

## **Program Process**

### **Intake**

In the notice of mediation that accompanied their summons, all homeowners were told to arrive on their given date for their intake conference. All nine counties had one day a month set aside for initial intake conferences, which were scheduled by the court clerk. The summons also included three forms that provided background information needed by the program. The homeowners were supposed to complete the forms before their initial intake conference; however, in practice, they didn't complete the forms in advance, waiting to do so until they arrived for their intake. When the homeowners arrived, the program coordinator gave them information on Hardest Hit Funds and Land of Lincoln, the local legal services provider, and encouraged them to avail themselves of these services.

Before meeting with the homeowners individually, the program coordinator conducted an orientation, providing information about the program, the foreclosure process and the possible options for their home. He then met with the homeowners individually in the order they arrived. During this meeting, he answered the homeowners' questions and instructed them on what they would need to do next. These conferences generally took about ten minutes.

At the intake conference, the program coordinator gave the homeowners the date of the first pre-mediation session. Some lenders had the program coordinator pass out their loan modification applications to the homeowners at the intake conference. Others sent the applications to them, something they were required to do within 15 days of the intake conference. If the homeowners received the packet at the initial conference, they were required to complete and submit it to the lender's attorney within 15 days as well, and the program coordinator scheduled the first pre-mediation session within 30 days. If the homeowners did not receive the loan modification packet at the intake conference, the first pre-mediation session was scheduled 45 days out in order to give their lender time to review the packet.

### **Pre-Mediation Phase**

For most cases, the entire program process after intake consisted of a series of pre-mediation sessions conducted by the program administrator. Unlike other programs, a representative for the lender participated in these pre-mediation sessions (by phone) along with the lender attorney (by phone) and the homeowners, who attended in person. If the homeowners had an attorney, she attended as well,



either in person or by phone. The sessions were meant to facilitate the document exchange<sup>5</sup> process and, most often, end either with a temporary loan modification<sup>6</sup> or a decision to return to court to continue the foreclosure process.

Multiple sessions were often needed to complete the review and determine whether the lender would extend an offer of a loan modification to the homeowners. If the parties agreed to a temporary loan modification, then another session would be set for 90 days out, at the end of the trial payment plan. If they did not, the homeowners were asked if they wanted to pursue options to gracefully exit the home through mediation. If so, a mediation was scheduled.

The final session was used to go over the conversion of the temporary loan modification to a permanent modification, if the homeowners and their lender agreed to that conversion. Otherwise, it was used to discuss other options, and to decide whether the homeowners wanted to pursue those. If this was the case, mediation was scheduled. No final pre-mediation session was needed if the homeowners and their lender agreed to a permanent modification before the session date.

### **Mediation Phase**

By rule, three mediation sessions were allowed. The first was required to take place within 45 days of the last pre-mediation session, with additional sessions scheduled between 30 - 45 days after each previous session. The lender attorney was required to attend in person, but the lender representative could still attend by phone. The primary purpose of mediation as conceived by the rule was to discuss graceful exit options.

### **Termination**

Cases were terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners did not complete the required documentation within the required timeframe
- The homeowners did not appear for a pre-mediation or mediation session
- The homeowners voluntarily withdrew
- The homeowners and their lender did not agree to any option to avoid foreclosure

Cases were returned to court for dismissal if the parties agreed to a retention option other than a temporary loan modification, or if they agreed to a relinquishment option. If the homeowners and their lender agreed to a temporary loan modification, the program kept the case until the end of the trial period. A session was scheduled for the end of the trial period to facilitate any issues with the conversion. If the parties agreed on the conversion and signed the documents beforehand, the session was cancelled.

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<sup>5</sup> The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and the lender’s review of that packet.

<sup>6</sup> A temporary loan modification, or trial payment plan, is a modified monthly payment amount. Homeowners must make timely payments over a three-month period in order to obtain a permanent loan modification.

## PROGRAM ADMINISTRATOR PERSPECTIVES

The Dispute Resolution Institute, Inc. (DRI) executive director was asked her opinion about the strengths and challenges of the program.

### What worked well?

The DRI executive director pointed to the program's one-step entry process as the reason for its success. By not putting the burden on the homeowners to request mediation, they are much more likely to appear and participate. She pointed to the difference in participation in the 20<sup>th</sup> Circuit program, which DRI also administers, after the program changed from a multi-step entry program type to a one-step entry program type as further evidence of the effectiveness of the latter.

The executive director also said the program had great cooperation from each of the nine counties, their clerks and the judges. In addition, the court rule left it up to the program administrator to decide whether further pre-mediation sessions were needed, which led to more homeowners completing the program.

### Challenges

The executive director said geography was the biggest challenge for the program. The 1<sup>st</sup> Circuit is large, spanning the lower nine counties of Illinois. This made it hard to schedule cases in a way that the program coordinator may have desired. For example, if the participants wanted to come back for another session in two weeks, they couldn't be accommodated because the administrator had to cover nine counties. The small number of cases filed in some counties made geography even more challenging, as the program administrator sometimes had to drive more than an hour and a half to facilitate one pre-mediation session.

## PROGRAM BACKGROUND INFORMATION

A little more than 100 homeowners participated in the 1<sup>st</sup> Circuit program in 2017, which puts it in the middle of all the Attorney General-funded programs in terms of the annual number of participants. About three-quarters of the participating homeowners arrived at the initial intake conference in response to the information in their summons. The others were ordered into the program by the court.

### Judicial Circuit Characteristics

The Judicial Circuit is made up of nine far southern rural counties totaling about 215,000 residents. The population of the counties is largely non-Hispanic White, but with a sizeable Black/African-American minority. The median household income for the counties ranged from about \$32,000 to \$46,000 in 2016, with a poverty rate range of 13% to 34%. This puts it at 20% - 44% below the national median household income and 34% - 54% below the median for Illinois. In May 2018, the foreclosure rate ranged across counties from 1 in 1,384 to 1 in 3,999 homes.

## Size of Program

### The program served 113 homeowners in 2017, its only full year

The 1<sup>st</sup> Circuit program was small, with 191 homeowners helped by, at minimum, being provided with information, and 113 homeowners entering the program and participating in 2017.

Year	Filed	Contacted	Entered
2016	134	72	49
2017	279	191	113
<b>TOTAL</b>	<b>413</b>	<b>263</b>	<b>162</b>

Though small, with only 279 filings in 2017, it was the largest of the one-step entry programs, with the highest number of filings, homeowners helped, and homeowners entering (participating in) the program.

## Case Characteristics

Almost all cases were referred by the notice of mediation. Very few homeowners obtained assistance from lawyers for their cases. The program coordinator conducted all pre-mediation sessions, including those sessions that were meant to facilitate the document exchange. Mediators conducted the six mediations.

### Where Cases Were Filed

The 1<sup>st</sup> Judicial Circuit includes nine counties, with three (Williamson, Jackson, Saline) accounting for 72% of the filings. Two more (Massac and Union) added another 18%. The final four counties added the final 9%.<sup>7</sup>

County	Filings
<b>Williamson</b>	155
<b>Jackson</b>	80
<b>Saline</b>	63
<b>Massac</b>	38
<b>Union</b>	38
<b>All others</b>	39

### Referral Source

Most homeowners arrived for the initial intake conference in response to the notification that accompanied their summons. Fourteen homeowners whose cases were filed before the program started were referred by order of the court. Another 17 cases filed after the program began were ordered into the program, meaning that homeowners were offered a second chance to participate if they did not attend the initial intake conference scheduled for them.

### Services Received

No homeowners who participated in the program received the assistance of a housing counselor. Six were represented by a legal services attorney, and another 15 hired private counsel.

## Homeowner Characteristics

### Race/Ethnicity

Of the 94 homeowners who reported their race/ethnicity, 71 (76%) were non-Hispanic White. Another 11 (12%) were Black/African-American, while only four were Latino/Hispanic. The numbers of Black/African-American and Latino/Hispanic homeowners were too low to run any analyses, but of the 11 Black/African-American homeowners who arrived for the initial intake conference, only two

<sup>7</sup> Due to rounding, the percentages equal 99%.

completed the program and only one saved his or her home. One of the four Latino/Hispanic homeowners also saved his or her home. This compares to 17 of 71 (24%) of non-Hispanic White homeowners.

**Household Income/Age**

Almost two-thirds of homeowners had household incomes less than \$50,000. Only two had incomes over \$100,000. Of the 91 homeowners who reported their age, 52 (57%) were in their 40s and 50s, while 16 were 60 or older, and 23 were under the age of 40.

**Wish to Keep Home**

Almost every homeowner provided information on whether they wanted to keep their home. Of those who did, 88% said they wanted to keep their home, 6% said they did not, and 6% were undecided.

**Reason for Default**

The most common reason for default was lost income due to divorce, illness or other reason (72 of 139). Other reasons included losing a job (48), increased expenses or debt (10), and issues with the loan (4). Five gave miscellaneous reasons.

## PROGRAM PERFORMANCE

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- The proportion of homeowners facing foreclosure who participate<sup>8</sup>
- How many of those homeowners complete the program by having their packet reviewed and negotiating with their lender
- How many of those outcomes are positive – either home retentions or relinquishments, with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

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<sup>8</sup> The terms “homeowners facing foreclosure” or “homeowners with a foreclosure filed against them” will be used throughout this section to denote the full population of homeowners who would have received a notice of mediation. These homeowners include those who are ineligible for the program because they don’t fit the requirements laid out in the rule.

<b>PERFORMANCE SNAPSHOT</b> <b>Program Launch (April 2016) - December 2017</b>	
<b>Impact</b>	263 homeowners facing foreclosure benefitted from this program, with 66 avoiding foreclosure and 55 saving their home
<b>Participation</b>	162 homeowners participated in the program
<b>Outcomes</b>	47% of participating homeowners avoided foreclosure 66% who completed the program avoided foreclosure Of those who avoided foreclosure, 83% saved their home
<b>Participant Experience</b>	Almost all homeowners left the initial intake conference understanding more about the foreclosure process, what their options for their home were and how to complete a loan modification packet. Almost all left satisfied with their experience.
<b>Time in Program</b>	On average, cases took 110 days to complete the program

### Program Impact

Program impact is defined for this evaluation as the percentage of all homeowners facing foreclosure who have been assisted in some way by the program. This includes providing information to the homeowners about the foreclosure process and possible options for their home, helping them to submit their loan modification packet and facilitating negotiations with their lender. Ideally, the homeowners leave the program with the best outcome for them, whether saving their home, gracefully exiting it or deciding the best option is to go forward with the foreclosure.

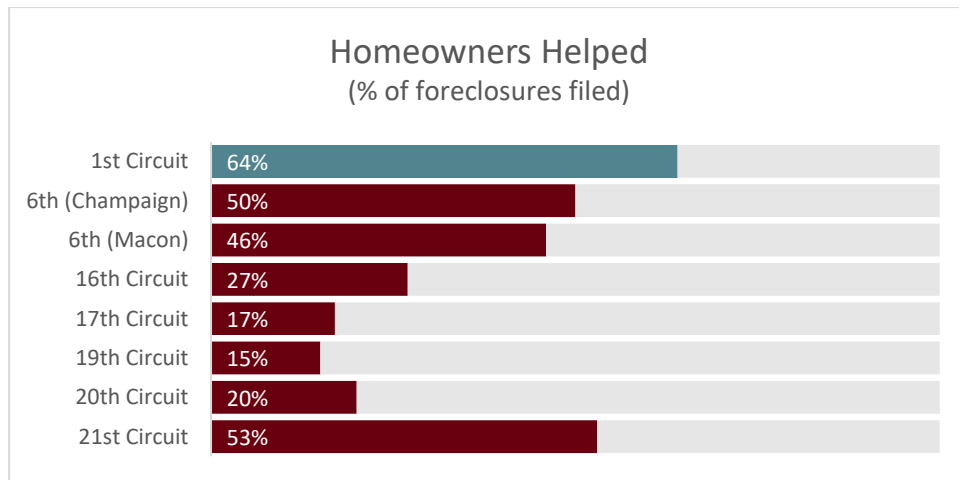
Because the calculations are based on all homeowners facing foreclosure and not just those eligible to participate, the impact of the program is understated. The percentages provided here are lower than they would be if only eligible homeowners were included in the filing numbers. The program's overall impact is further understated because a number of cases that were filed during the evaluation period are still open and, therefore, do not have an outcome.

All of this means that the percentages discussed below are not precise. They do, however, help to place the program's impact relative to the other programs in the study.

### The program has the highest impact in terms of homeowners helped

The 1<sup>st</sup> Circuit program succeeded in inducing 64% of homeowners who had an initial intake conference scheduled for them to appear for that conference. This puts it at the top of all eight programs. It also sits near the top in terms of the percentage of homeowners facing foreclosure who saved their homes through the program.

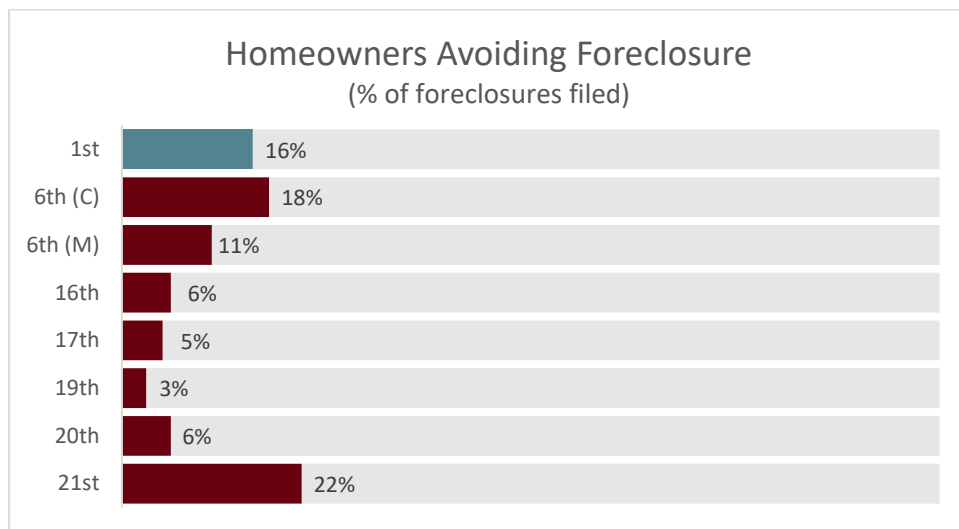
When homeowners arrived for their initial intake conference, they were given information about their options, the process and other services that could help them. Therefore, all homeowners who attended the initial intake conference were considered to have been helped by the program. In all, 263 homeowners facing foreclosure were helped by the program during the evaluation period.

WHAT DOES THIS MEAN?

One of the program's main strengths was its one-step entry process. This ensured that a high percentage of homeowners showed up for their first session.

**Homeowners Avoiding Foreclosure****The program had the third highest impact in terms of homeowners avoiding foreclosure**

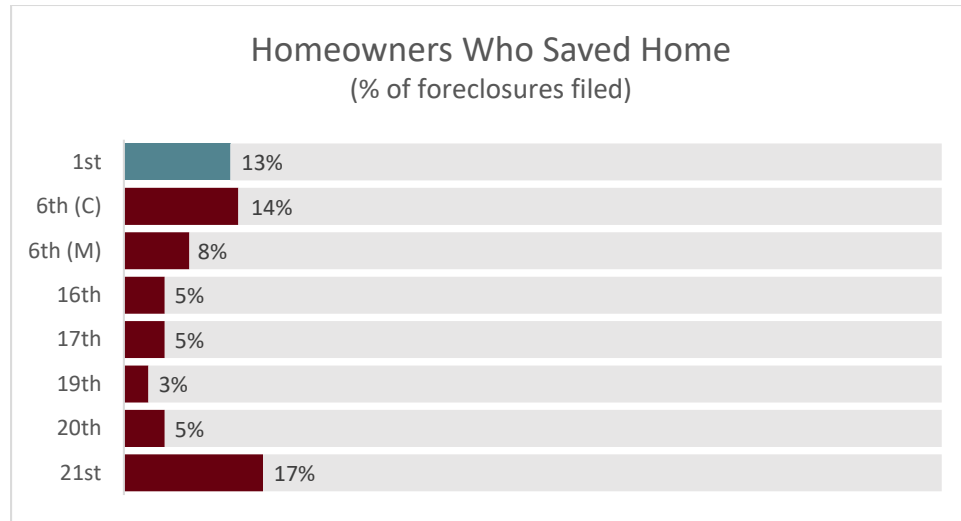
If the homeowners continued after the first pre-mediation session, the program also helped them by encouraging them to submit their loan modification packet, and then, by facilitating communication and negotiation with their lender. If they were eligible and they agreed to their lender's proposed terms, homeowners could save their home or reached an agreement with their lender that allowed them to exit their home gracefully. Of the 413 homeowners who had an initial intake session scheduled for them, 66, or 16%, were able to avoid foreclosure. This is the third highest rate for all eight Attorney General-funded programs, close behind the 6<sup>th</sup> Circuit (Champaign) program.





### Homeowners Saving Homes

Most of the homeowners who avoided foreclosure were able to save their home. Thus, 55 (13%) of homeowners who had a foreclosure filed against them were able to save their home through the program.



### WHAT DOES THIS MEAN?

One might think that a high participation rate would be offset by fewer of those participating being eligible for a loan modification. This does not appear to be the case. As will be seen below, homeowners who participated in the program were more likely to save their homes than in any other program. Thus, a high participation rate led to a high percentage of homeowners with a foreclosure filed against them saving their homes.

### **Participation**

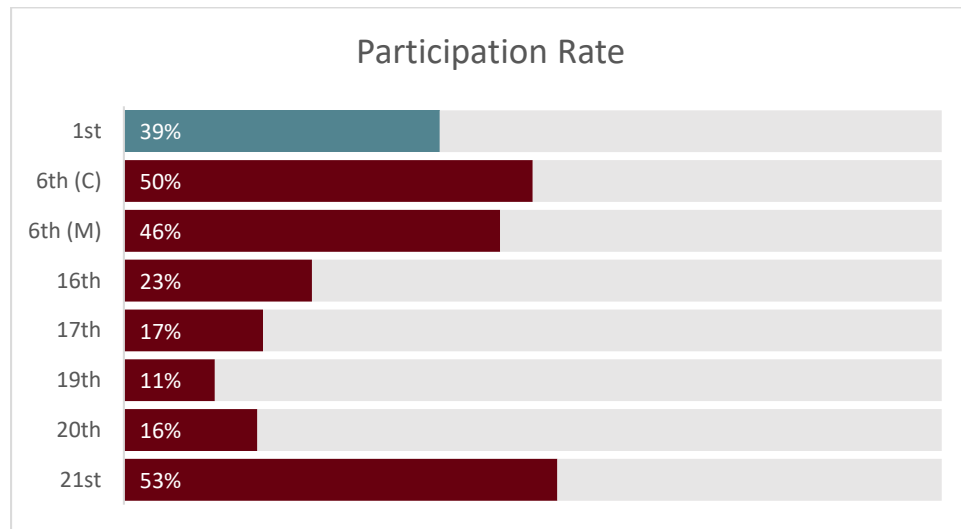
Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

In general, participation relies on two things: the program's efforts to get the homeowners to contact the program and the homeowner's ability to complete the steps necessary to enter the program. As the 1<sup>st</sup> Circuit program used the one-step entry process, the only variable to consider in terms of participation is whether the homeowners were induced to reach out to the program by attending the first pre-mediation session. If they did attend the session, they were considered to have entered the program.

### **The 1st Circuit program has the highest contact rate of any program.**

The 1<sup>st</sup> Circuit was very successful in inducing homeowners to attend the initial intake conference, with 64% of homeowners appearing for the conference. However, the percentage of homeowners who

entered the program is fourth out of the eight programs, at 39%. The difference between contacts and entries was entirely due to homeowners who appeared for the initial intake conference, but weren't eligible for the program because they were heirs of a deceased mortgagee, the home in question was not their primary residence or they had already filed bankruptcy. These homeowners were provided information about their options and the foreclosure process, and were referred to other services when appropriate.



#### WHAT DOES THIS MEAN?

The most likely reason for the high participation rate is the one-step entry process. All one-step entry programs had much higher participation rates than those requiring more than one step to participate. These programs do two things that induce participation: they tell the homeowners that it is mandatory for them to appear for the first pre-mediation session, and they have no further requirement for participation.

### **Outcomes**

The homeowners who entered the program would end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program could not, and should not, expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

The 1<sup>st</sup> Circuit program had the highest retention rate and the highest completion rate for participating homeowners. Forty percent of participating homeowners reached an agreement to keep their home. Only 29% did not complete the program.

Program outcomes examined for the 1<sup>st</sup> Circuit program include:

- Program completion rate
- Foreclosure avoidance rate
- Types of home retentions and relinquishments

### **Overall Outcomes**

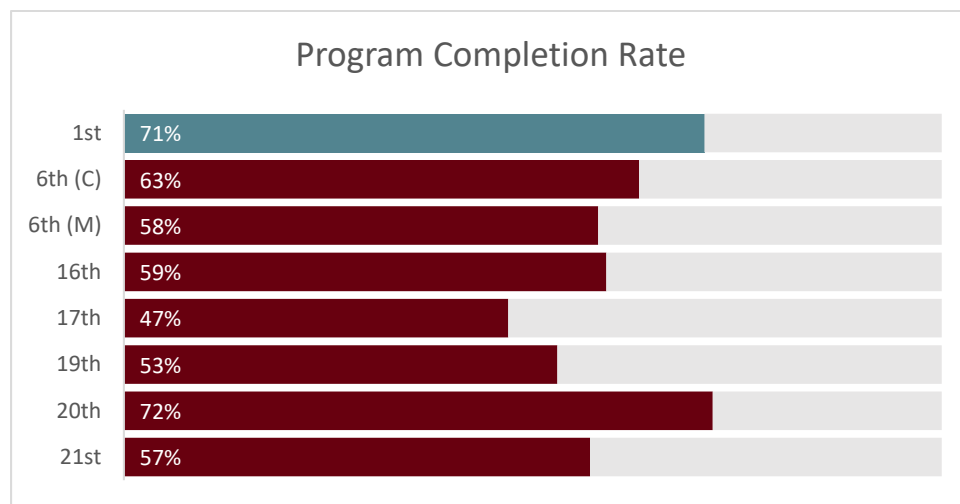
All but six outcomes in the program came in the pre-mediation phase. The other six occurred during the mediation phase. Overall, almost half of the cases ended with an agreement, including five of the six mediated cases. Only 29% ended due to the homeowners leaving before negotiating with their lender.

<b>Outcomes (n = 136)</b>		
Agreement: Retention	55	40%
Agreement: Relinquishment	11	8%
No Agreement	28	21%
Closed: Program Not Completed	39	29%
Other	3	2%

### **Completion Rate**

**More than 7 in 10 participating homeowners completed the program**

Of the homeowners who entered the program, 71% were able to complete it. This, along with the 20<sup>th</sup> Circuit, is the highest completion rate of the eight Attorney General-funded programs.



### **WHAT DOES THIS MEAN?**

If homeowners entered the program, they were likely to complete the steps necessary to have their lender assess their loan modification and discuss with them a possible loan modification or other foreclosure avoidance option. These steps include the long and difficult process of completing the loan modification packet and providing any missing documents required for the lender to review the packet.

The 1<sup>st</sup> Circuit program shared the same high participation rate as the 20<sup>th</sup> Circuit program. Both programs were administered by DRI, and both followed the same process after intake. There are two possible reasons that the programs had such high completion rates. The first is that the homeowners have the opportunity to meet with their lender representative and the lender attorney during document exchange. This helps the homeowners to understand what is needed from them, ask questions of the lender attorney and push back when their lender is requesting documents that have already been submitted. Meeting with the lender representative also means that the homeowners were able to learn early on how probable it was that they would be eligible for a loan modification and make more informed decisions about whether to continue. This hypothesis is supported by the programs' high retention rate for participating homeowners. Not only do more homeowners complete the programs, but more save their homes as well.

A second explanation, which also contributes to the programs' comparatively high rate of completion, is how the programs recorded outcomes. The programs recorded an outcome as "no agreement" if the homeowners were able to discuss options with their lender, even if the homeowners didn't appear for a later pre-mediation session. This was different from other programs in which the lender representative did not participate until much later in the process, so that when homeowners did not appear for a session, the outcome was recorded as a "program not complete".

#### **Reasons for Non-Completion**

Of the 39 homeowners who didn't complete the program, 38 didn't show up for a pre-mediation session. The other homeowner had his or her case removed from the program by court order.

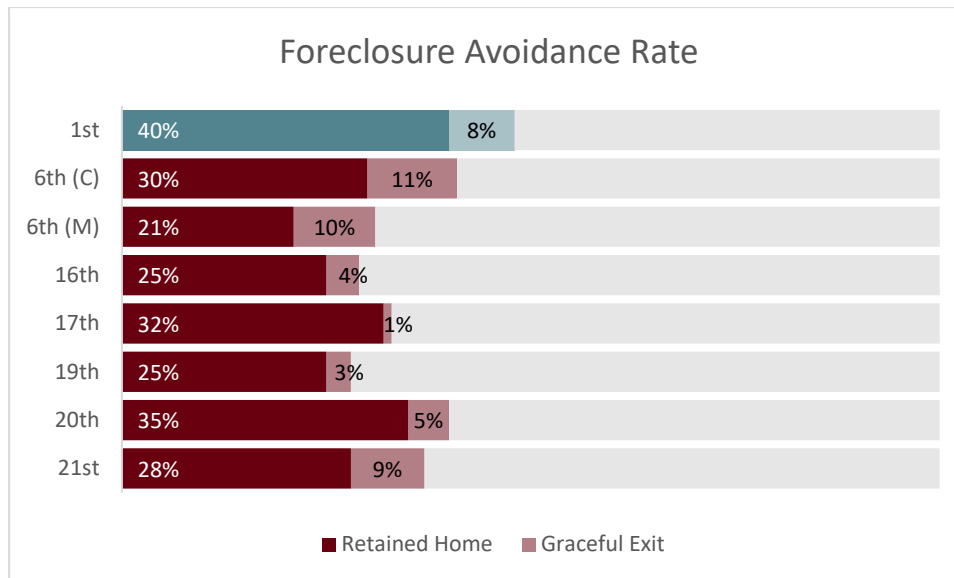
#### **WHAT DOES THIS MEAN?**

Those who didn't complete the program were most likely to drop out before completing their packet, rather than later in the process. There are at least three possibilities for why they did so. The first is that they learned that they were not likely to obtain a loan modification and, therefore, decided not to continue with the program. The second is that they decided that they weren't interested in keeping their home. The third is that they found the process for completing the packet to be too difficult.

#### **Foreclosure Avoidance**

##### **Almost 5 in 10 participating homeowners avoid foreclosure, the highest rate of all programs**

Of those homeowners who participated in the program, 48% avoided foreclosure by saving their home or gracefully exiting it. Forty percent saved their home, while 8% reached agreement with their lender to relinquish it without a foreclosure. These are the highest foreclosure avoidance and home retention rates of all eight programs. Of those who completed the program, 57% saved their homes.



#### WHAT DOES THIS MEAN?

A valid hypothesis regarding foreclosure mediation is that a program with a higher participation rate would have a smaller proportion of participating homeowners who would qualify for options to save their home, as more homeowners who would not qualify for home retention would participate. This is not the case. Homeowners in the 1<sup>st</sup> Circuit who entered the program had a greater probability of retaining their home as compared to those who participated in programs with lower participation rates. The reason for this is not known. It could be due to the homeowners being able to communicate with their lender from the beginning; to the foreclosure environment in the circuit; to the timing of the program's launch, which happened after the foreclosure crisis was starting to abate; or to the high number of loans owned by local banks.

#### Types of Retention

Unlike the other programs, homeowners in the 1<sup>st</sup> Circuit program were almost as likely to obtain a reinstatement (20) as a loan modification (21). This may be due to the program's short duration combined with the trend seen in other programs for more reinstatements in 2017 than in previous years. The other retention options agreed upon were a loan payoff (6), refinance (2), and repayment agreement (2).

#### Types of Relinquishments

The few relinquishments agreed upon in the 1<sup>st</sup> Circuit program were four deeds in lieu, three consent judgments, two home sales for at least the full value of the mortgage debt, and one short sale.<sup>9</sup>

#### **Time in Program**

Time in program refers to the amount of time it takes for a case to move from the homeowner's first contact with the program to the point at which the case leaves, either to return to the foreclosure process or to be dismissed due to the homeowners and their lender agreeing to a retention or

<sup>9</sup> In a short sale, the home is sold for less than what the homeowners owe their lender.

relinquishment option. In the 1<sup>st</sup> Circuit program, this time period is calculated from the date of the initial intake conference until the case left the program.

### Cases, on average, took 111 days to complete the program

The average time it took for cases in which the homeowners completed the program was 111 days, the second shortest time to completion

Average Days in Program	
In program – completed	In program – not completed
111	101

among the eight programs. The median was 63 days, with a range of 5 to 357 days. Those cases in which the homeowners didn't complete the program returned to court, on average, 101 days after their scheduled initial intake conference. This average is skewed by a few cases in which the court ordered the case back in after the homeowners failed to appear for their scheduled conference. Although those cases were returned to court, the case was stayed again when it was returned to the program.

### WHAT DOES THIS MEAN?

The minimum amount of time the foreclosure process was stayed was 30 days – until the scheduled initial intake conference. If the homeowners didn't appear for the conference, the process continued. If the homeowners did appear for the conference, the process moved quickly for most homeowners, who left the program within four months.

### Sustainability

One of the Attorney General's main goals for the grant was for the programs it funded to become self-sustaining. The 1<sup>st</sup> Circuit program failed to achieve this goal. This is attributable to the program being extended to all counties in the judicial circuit and to its relatively low filing fee. Although the court's decision was admirable, as this meant that all homeowners in the circuit were offered the same opportunity to benefit from the mediation program, it also meant that services were provided to far-flung counties with very few foreclosures. This spread resources thin, which, along with the limited amount of filing fees collected in the circuit due to the filing fee being low relative to those in other circuits, meant that filing fees could not pay for the program. The program, therefore, is now the only one that did not continue after the grant funding ended.

### Participant Experience

In foreclosure mediation programs, homeowners should leave their first intake or pre-mediation session with a better understanding of their options for their home, the foreclosure process and how to best work with their lender. They should also leave having felt respected and treated fairly. Homeowners who go on to further sessions should have an experience of procedural justice and should leave feeling good about their experience. Lender representatives and attorneys for the parties should have a similar experience.

For the evaluation, each program was asked to have the homeowners complete surveys at the end of the first intake or pre-mediation session. In the 1<sup>st</sup> Circuit program, the participants also completed surveys after the final pre-mediation session. No mediation session surveys were completed.



**Initial Intake Conference Surveys<sup>10</sup>**

Homeowners who attended their initial intake conference believed they learned a lot about their options and how to work with their lender. They felt respected and treated fairly, and left being very satisfied with their experience.

**Procedural Justice**

This evaluation assessed how the homeowners felt they were treated by examining their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system. Its presence or lack thereof has a profound impact on parties' satisfaction with the justice system and their perception of its fairness.<sup>11</sup> To measure this in the pre-mediation phase, homeowners were asked about whether they felt they were treated fairly and with respect by the person conducting the session.

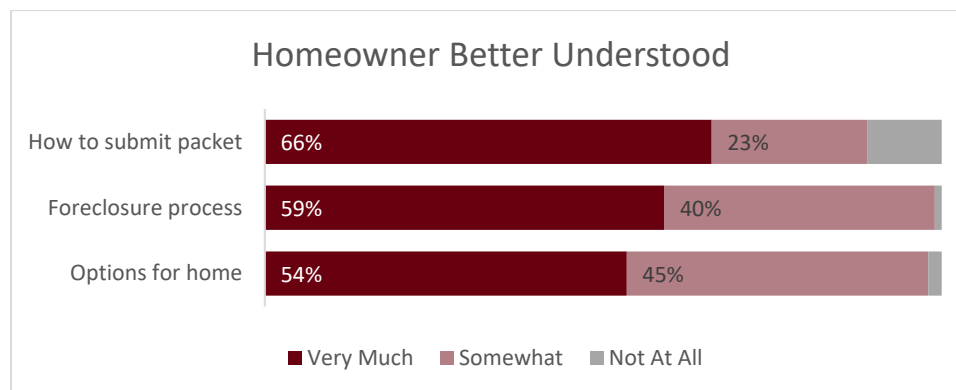
Respect and Fairness			
	Very much	Somewhat	Not at all
Did the administrator treat you with respect?	99%	1%	0%
Did the administrator treat you fairly?	99%	1%	0%

**WHAT DOES THIS MEAN?**

All but one of the homeowners felt they were treated very fairly and with very much respect. This indicates that they had an experience of procedural justice during the initial intake conference.

**Understanding**

Almost every homeowner who completed the survey said they better understood how to submit their loan modification packet, the foreclosure process and their options for their home. Two-thirds "very much" gained a better understanding of how to submit their packet, while a majority said they "very much" gained an understanding of the foreclosure process and the options for their home.



<sup>10</sup> The program coordinator handed each of the homeowners the survey at the end of the initial intake conference. 112 of 323 homeowners completed the survey during the evaluation period. This is a 34.7% response rate.

<sup>11</sup> Alan E. Lind, "In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System," LAW & SOCIETY REVIEW, 24: 953-996 (1990).

WHAT DOES THIS MEAN?

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward. Those who responded to the survey indicated they were gaining at least somewhat of an understanding of these.

**Satisfaction**

Of the 112 homeowners who responded to this question, 76 said they were “very satisfied,” 31 said they were “satisfied” and five said they were “very unsatisfied.” These latter five likely mistakenly marked that they were unsatisfied as all their previous responses were positive, and one wrote a comment stating that the conference was “awesome.” If we exclude those five responses, 71% were very satisfied and 29% were satisfied with their experience in the conference.

Pre-Mediation: Satisfaction (n = 23)				
	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
How satisfied are you with your overall experience?	71%	29%	0%	0%

**Homeowner Comments**

There were very few comments, most likely because the comments questions were the only questions on the back of the survey form. Of those who did comment, all commented about what they liked about the conference. None had a negative comment. The comments focused on how helpful the conference was and how much they learned. Two homeowners said they found hope. Below are representative comments:

Comments on the program coordinator:

- “They were very helpful and personable. Any questions I had they gave me an understanding to how things work and the process of the foreclosure.”
- “Joe's great. I was very comfortable with him.”
- “Joe was very respectful and knowledgeable about each of our cases. He gave me hope!”
- “He explained all options very well.”
- “We felt more hopeful after speaking with Joe Rose.”
- “Explained everything very well and easy to talk.”

Comments on the helpfulness of the conference

- “I believe this is a very helpful program.”
- “Awesome representation and communication was excellent.”
- “It was very helpful. We received a lot of helpful info we didn't have.”
- “Learned a lot about the foreclosure process. I liked how things were explained to us.”

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“Learned a lot about the foreclosure process. I liked how things were explained to us.”

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**Final Pre-Mediation Session Surveys**

Only 16 homeowners completed a final pre-mediation session survey. All of them gave the highest ratings to the process. They said it “very much” helped them to communicate with their lender. It “very

much” helped them to understand how to complete their loan modification packet. They also gave high marks to the program administrator who conducted the sessions, saying he “very much” understood what was important to them, that he treated them with respect and he treated them fairly. They were also all very satisfied with their experience in the process and the outcome.

Only one homeowner commented about the process. That homeowner said he or she liked having “direct access to get questions answered and any explanations needed.”

### **Mediation Surveys**

There were no mediation surveys.

## **DISCUSSION & RECOMMENDATIONS**

The 1<sup>st</sup> Circuit program was very successful at bringing people into the program. Despite conducting no ongoing homeowner outreach beyond the information homeowners received with their notice of summons and flyers distributed to the judges, almost two-thirds of homeowners facing foreclosure appeared for the initial pre-mediation session, where they learned about their options and the foreclosure process. The high participation rate led to a high percentage of homeowners who had a foreclosure filed against them avoiding foreclosure, with most of them saving their homes.

### **One-Step Entry Program Type Has the Greatest Impact**

All of the one-step entry programs had high rates of homeowners contacting the program, with rates for the four programs using this model ranging from 44% to 64%. This is likely due to the ease of entry and mandatory messaging that the homeowners received with their summons. The lower the barriers to entry, the more likely homeowners are to take the step to participate.

The participation rate in the 1<sup>st</sup> Circuit program was the highest of the four one-step entry programs. Once in, the participants had the greatest likelihood of avoiding foreclosure and of saving their home as compared to any program. Partly, this was due to the high completion rate for the program. But it also indicates that a high proportion of homeowners who had a foreclosure filed against them had the possibility of avoiding foreclosure. Thus, by inducing a high number of homeowners to participate, the program was ensuring that a higher number of homeowners would avoid foreclosure and save their homes.

### **High Completion Rate**

The program shared the highest rate of homeowners completing the program with the 20<sup>th</sup> Circuit program, which was also administered by DRI and had a similar process after intake. This is likely due to their being able to meet with their lender representative and with the lender attorney from the beginning. This gave them someone to talk with about the necessary documents and an opportunity to have someone explain exactly what was needed. This “hand holding” helped homeowners to submit all the necessary documents for their lender to review their financial situation and decide which options were available to the homeowners. It also provided an incentive to the homeowners to complete the process, as they were able to communicate directly to their lender representative with the help of a

facilitator. Another contributing factor was the manner in which outcomes were recorded. The programs recorded an outcome of “no agreement” for any case in which the homeowners were able to discuss options with their lender, regardless of whether the documents had been exchanged or the homeowners failed to appear for a pre-mediation session.

### **High Home Retention Rate**

The 1<sup>st</sup> Circuit program had, by far, the highest rate of participating homeowners saving their homes, followed by the 20<sup>th</sup> Circuit program. The reason for this is not known, although it is possibly attributable to the homeowners being able to communicate with their lender from the beginning. Other possible explanations are differences in the housing market, the relatively high percentage of loans owned by local banks who have a different orientation toward foreclosure than national banks and the program’s launch being after the worst of the housing crisis was over. However, the high rate of home retention in the 20<sup>th</sup> Circuit program points to the program model itself being a major contributing factor.

### **Lack of Services**

In the 6<sup>th</sup> Circuit (Champaign) and the 20<sup>th</sup> Circuit programs, which had a similar structure for facilitating document exchange, the assistance of a housing counselor and attorney representation were found to improve homeowner outcomes. Very few homeowners in the 1<sup>st</sup> Circuit program had this type of assistance, with none receiving help from a housing counselor and 21 of 162 having legal representation. Despite this, the program managed to have the highest completion and foreclosure-avoidance rates of any of the eight Attorney General-funded programs.

### **Program Not Prioritized to Areas of Greatest Need**

The court decided to extend the opportunity to participate to all counties in the judicial circuit. This was a laudable decision, as it can be argued that homeowners should not be shut out of the program simply due to where they live. However, it also spread resources thin, with services provided to counties that required more resources than their few foreclosure filings could pay for. The circuit is spread over a wide geographic area, and the program administrator, at times, had to spend a day’s travel to work with only one or two homeowners. This spread of resources, along with the limited amount of filing fees collected in the circuit due to there being few foreclosures and the filing fee being low relative to those in other circuits, meant that filing fees could not pay for the program. The program, therefore, is now the only one that did not continue after the grant funding ended.

## **CONCLUSION**

The 1<sup>st</sup> Circuit program model provides a high participation rate, along with a high completion rate and strong rate of foreclosure avoidance. The model demonstrates that the greatest program impact on homeowners, in general, is to increase participation, and highlights the large impact of the loss of the program on homeowners facing foreclosure in the circuit.

It also demonstrated that sometimes the mediation component of these foreclosure “mediation” programs was not critical to serving homeowners and their lender, as negotiations could be facilitated

by the same person who facilitated the document exchange. In this program, only six mediations were conducted, but by many measures, the program was quite successful.

Unlike other programs, the homeowners in the 1<sup>st</sup> Circuit program had little access to assistance from lawyers and housing counselors; however, this did not seem to have a negative effect on the program's outcomes. This calls into question whether there are other unknown factors, such as the general economic recovery or the housing market in Southern Illinois, that contribute to outcomes.

# Appendix A

## Definitions



## DEFINITIONS

### DEFINITIONS SPECIFIC TO THIS EVALUATION

Circuit: In this evaluation, the term “Circuit” refers to one of the 24 Judicial Circuits in Illinois. Some of those circuits are made up of multiple counties and others are single-county circuits. All the foreclosure mediation programs in this evaluation serve particular counties in their circuit, with the exception of the 1<sup>st</sup> Circuit program, which served all the counties in the circuit. The counties the other programs serve are designated in the evaluation.

Foreclosure: This evaluation uses the term “foreclosure” as it is used in the vernacular, to refer to both the process of foreclosing on a home by a foreclosure action that is filed in court as well as the final act of a lender obtaining ownership of a home as the result of a court granting foreclosure.

Foreclosure avoidance: After a foreclosure lawsuit is initiated, the options are that the foreclosure process will continue, resulting in foreclosure judgement and sale, or the lender and the homeowners may agree to some foreclosure alternative. Alternatives where the homeowners retain possession of their home are known as retention agreements. Alternatives where the homeowners vacate the property are known as relinquishment options.

Homeowners: The term “homeowners” is used in this evaluation – instead of other terms such for those who have borrowed via a mortgage, such as borrowers, debtors or mortgagors – because the programs studied specifically work with those who borrow money to purchase a home.

A further distinction is drawn between the use of the term “*the* homeowners” and “homeowners.” “*The* homeowners” refers to the person or people who have taken out a mortgage to own a single home. For example, “The homeowners decided to work through a foreclosure mediation program to try to keep their home.” Likewise, “homeowners” is used as the plural of “the homeowners.” For example, “Homeowners attend housing counseling sessions before meeting with lenders.” While this system may create moments of grammatical confusion, it is intended to differentiate between the owner(s) of a particular home who are defendants in a case concerning that home as compared to a group of people who all own homes. Thus, when discussing data, such as “homeowners entering the program,” the evaluation is not quantifying individual people who own homes, but rather, homes.

Lenders: The term “lenders” is used in this evaluation to refer to the various creditor entities that may be involved in foreclosure mediation, such as banks and servicers.

### FORECLOSURE TERMS

Document exchange: The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and their lender’s review of that packet. During that time, their lender may request additional documents from the homeowners in order to have the necessary information to review the packet. If this process does not move swiftly enough, the documents become “stale” and updated versions must be submitted.

Graceful Exit/Relinquishment: With a graceful exit or relinquishment option, homeowners avoid foreclosure, while transitioning out of the home. Options include

Cash for Keys: With a cash for keys program, the lender offer the homeowners cash to vacate the property quickly, leaving the property in good condition. This cash can assist the homeowners with expenses such as moving costs and security deposits in rented homes.

Consent Foreclosure: The lender and the homeowners may agree to a consent foreclosure, where the homeowners will have no right of redemption and the lender agrees not to file for a deficiency judgment.

Deed in lieu: With a deed in lieu of foreclosure, the lender lets the homeowners give the title to the property back, transferring ownership back to the lender. A lender will not accept a deed in lieu of foreclosure if there are any other liens on the property. The lender may require that the homeowners try to sell the property for 90 days first before approving a deed in lieu. One benefit of deed in lieu is that the lender may agree to waive the deficiency judgement, releasing the homeowners of liability under the mortgage.

Short Sale: In a short sale, the lender agrees to let the homeowners sell the property to a new buyer for an amount less than what the homeowners currently owes the lender.

HAMP (Home Affordable Modification Program): A federal government program that helped homeowners obtain loan modifications from participating lenders. Most large lenders participated; a “HAMP review” was their first step in considering a loan modification. HAMP ended in 2016.

HHF (Hardest Hit Fund): A state-administered federal program that provides mortgage assistance to homeowners who have experienced at least a 15% reduction in income due to a hardship event and who meet the eligibility criteria. The assistance is meant to allow those eligible for the program to avoid foreclosure while they work to regain financial stability.

Loan modification packet: In order to be considered for a retention option, the homeowners must submit a Request for Mortgage Assistance (RMA) Application. The RMA Application allows the lender to evaluate the homeowners for foreclosure prevention alternatives. The RMA Application requires detailed information, including borrower details, property details, income worksheets, a hardship affidavit and tax forms.

Retention: An alternative to foreclosure that allows the homeowners to retain possession of the home. Options include:

Forbearance: A forbearance reduces or suspends mortgage payments for a period of time. Therefore, a forbearance can be helpful to homeowners experiencing a temporary hardship. At the end of the forbearance period, the homeowners must bring the loan current.<sup>12</sup>

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<sup>12</sup> NOLO, Legal Encyclopedia, <http://www.nolo.com/legal-encyclopedia/whats-the-difference-between-loan-modification-forbearance-agreement-repayment-plan.html>

Modification: Those Homeowners who wish to remain in their home can ask to be evaluated for a loan modification. Their lender will run a net present value test, which measures the benefit to the investor of a loan modification, part of which is the homeowners' ability to pay a new loan amount.<sup>13</sup> Loans are modified based on a "waterfall analysis," meaning that their lender will evaluate a series of changes to the loan (capitalizing arrearages, reducing interest rate, extending amortization term, forbearing principal and/or reducing payment) to see if the homeowners' payment can be made affordable.<sup>14</sup>

Redemption: Redemption is when the homeowners pay off the whole loan. In Illinois, the right to redeem, or to pay the balance of the mortgage and fees, expires seven months after service of summons or three months after judgment, whichever comes later.<sup>15</sup>

Reinstatement: Reinstatement is when homeowners catch up on all missed payments and fees. Reinstatement ends the foreclosure suit so that the homeowners are up-to-date on the mortgage.<sup>16</sup> Homeowners can only reinstate once every five years.<sup>17</sup>

Temporary loan modification: If the homeowners are approved for a modification, they must first complete a three-month trial payment plan (TPP). It is not necessary for the homeowners to sign the trial modification agreement; they just have to start making timely payments to accept it.<sup>18</sup> During the TPP, the amount the homeowners owe their lender continues to accrue. Payments are held in a suspense account until the amount of a full payment under the mortgage note is reached, which is when the payments are applied. After three payments, the TPP should be converted into a permanent modification. Conversion to permanent modification can sometimes be stalled, which the homeowners should not be penalized for. After the permanent modification is in place, arrearages are capitalized and interest will start to accrue at the reduced rate.<sup>19</sup> In the case of a proprietary modification not under a government program, the lender may still require a trial period.

## FORECLOSURE PROGRAM TYPES

Hybrid: This term is used to describe the 16<sup>th</sup> Circuit program. In this program, homeowners receive a notice of mediation that says they must contact the program coordinator in order to participate, but they also must file an appearance. Thus, it is a hybrid of the one-step entry and multi-step entry models.

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<sup>13</sup> National Consumer Law Center, training material slides on file with Resolution Systems Institute.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Illinois Legal Aid Online,

[http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp\\_Content&contentID=4650#q=6](http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6)

<sup>17</sup> Id.

<sup>18</sup> National Consumer Law Center.

<sup>19</sup> National Consumer Law Center.

Multi-step entry: The term “multi-step entry” is used in this study to describe a program in which the homeowners receive a notice of mediation with their summons that tells them they have the opportunity to participate in the mediation program. They then must complete two or more steps to participate. The 17<sup>th</sup> Circuit, 19<sup>th</sup> Circuit and 20<sup>th</sup> Circuit programs use this model.

One-step entry: The term “one-step entry” is used in this study to describe a program in which the homeowners receive a summons that includes the date and time that must appear for their first pre-mediation session. When the homeowners appear for the session, they are considered to have entered the program, thus only needing one step to enter. The 6<sup>th</sup> Circuit and 21<sup>st</sup> Circuit programs have this type of program.

## GENERAL COURT TERMS

Complaint: “A written statement by the plaintiff that starts a lawsuit. It says what the plaintiff thinks the defendant did and asks the court for help.”<sup>20</sup> In the foreclosure context in Illinois, the complaint form must comply with 735 ILCS 5/15-1504.<sup>21</sup> The mortgage and current copy of the note should be attached. The plaintiff should identify the “capacity” in which it brings the suit, such as owner or agent.<sup>22</sup> The complaint should also specify the current unpaid balance and per diem interest. Under 12 C.F.R. § 1024.41, the foreclosure complaint cannot be filed until the borrower is 120 days late.<sup>23</sup>

Default: Default is defined by mortgage documents, but usually means a missed mortgage payment. Default could also result from a lack of insurance, sale of property, failure to make required repairs, etc.<sup>24</sup>

Filing an Answer: An answer is the defendant’s response to the foreclosure complaint. The homeowners/defendant has 30 days from service to file the appearance and answer.<sup>25</sup> Under 735 ILCS 5/15-15-4(h), homeowners can answer or file a counterclaim.<sup>26</sup> If the defendant does not file an answer, the court will proceed with the foreclosure.

Filing an Appearance: By filing an appearance, the homeowners acknowledge the lawsuit, but makes no claim that they agree with the lender’s suit. Having an appearance on file means the homeowners will be notified of all future court dates. There is a fee to file an appearance, but fee waivers may be available.<sup>27</sup>

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<sup>20</sup> Illinois Legal Aid Online,  
[http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp\\_Content&contentID=4650#q=6](http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6)

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> National Consumer Law Center.

<sup>25</sup> Illinois Legal Aid Online.

<sup>26</sup> National Consumer Law Center.

<sup>27</sup> Illinois Legal Aid Online.

Service of Process: Service is the delivery of “legal papers to the opposing party in a case.”<sup>28</sup> Service gives the defendant notice of the legal action and is carried out by the sheriff or process server. If personal service is not possible, a notice will be put in the local newspaper and the homeowners will be considered served by publication. Most program deadlines start from when service is made upon the homeowners.

Summons: “A notice to a defendant that a lawsuit against him or her was filed in a court and that the defendant has to appear in court.”<sup>29</sup> In the foreclosure context, the summons must include a Homeowner Notice (735 Illinois Compiled Statutes 5/15-1504.5). This notice explains the homeowners’ rights in terms of possession, ownership, redemption and surplus, among other things. For jurisdictions with foreclosure mediation, a notice of foreclosure mediation is attached to the summons and complaint.

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<sup>28</sup> Id.

<sup>29</sup> Id.

# Appendix B

## Methodology



## EVALUATION METHODOLOGY

This evaluation is the second funded by the Office of the Illinois Attorney General. It is the final evaluation for the programs, and is meant to provide insight not only into how well each program performed while under the grant, but to determine whether particular aspects of the programs and factors external to them had an effect on participation and program outcomes.

### EVALUATION PERIOD

The evaluation period for this study begins with the launch of each program and ends with cases that were filed by December 31, 2017. It only includes outcomes for cases that were closed by that date. This means that there were four years of data for the 16<sup>th</sup> Circuit, 19<sup>th</sup> Circuit, 20<sup>th</sup> Circuit and 21<sup>st</sup> Circuit programs, more than three years for the 6<sup>th</sup> Circuit (Champaign) and 17<sup>th</sup> Circuit programs, and less than two years for the 1<sup>st</sup> Circuit and 6<sup>th</sup> Circuit (Macon County) programs.

### DATA COLLECTION TOOLS

#### **Online Case Management and Monitoring System**

One key to this evaluation was the creation and use of uniform data fields across eight programs using seven models. The [evaluator](#) worked with program coordinators, court personnel and housing counselors to customize a commercially-available online case management system to fit the foreclosure mediation programs' case management and data collection needs. The system was designed so that almost all data were collected automatically and did not require program staff to spend time entering data needed for the evaluation. For example, participant surveys were all scannable.

This system was used by seven of the eight programs in the study. In the 21<sup>st</sup> Circuit program, the mediation provider, Foreclosure Mediation Specialists, wanted to keep its data collection uniform with the other programs it was administering and declined to use the online system. The program administrator did, however, provide data the evaluator could adapt to work with the information the other programs were collecting.

Before each program launched, as well as during the evaluation period, the evaluator continued to work with each program to further customize fields to fit both their case management needs and the evaluator's need for a uniform set of definitions for each data collection field. The customized online system enabled the seven participating programs to collect the same data so that they could be assessed on the same criteria, allowing an apples-to-apples comparison.

The data collected from the online system included homeowner demographics, dates between each milestone to determine how long it was taking for cases to get through each phase of the process; the point at which each case left the program; and case outcomes, the reason the homeowners defaulted on their loan, and the owner of their loan.

The programs differed in the data they collected. The 1<sup>st</sup> Circuit and 20<sup>th</sup> Circuit programs were the most comprehensive, collecting data for all the topics included in the study. The 16<sup>th</sup> Circuit, 17<sup>th</sup> Circuit and 19<sup>th</sup> Circuit programs collected data on almost all the topics, while the other three programs were the least comprehensive in what they collected.

VARIABLE	PROGRAMS THAT COLLECTED DATA
Attorney representation	1 <sup>st</sup> , 6 <sup>th</sup> (Champaign and Macon), 16 <sup>th</sup> , 17 <sup>th</sup> , 19 <sup>th</sup> , 20 <sup>th</sup>
Housing counselor assistance	6 <sup>th</sup> (Champaign and Macon), 17 <sup>th</sup> , 19 <sup>th</sup> , 20 <sup>th</sup>
Demographics	1 <sup>st</sup> , 16 <sup>th</sup> , 17 <sup>th</sup> , 19 <sup>th</sup> , 20 <sup>th</sup>
Reason for default	1 <sup>st</sup> , 16 <sup>th</sup> , 17 <sup>th</sup> , 20 <sup>th</sup>
Owner of the loan	17 <sup>th</sup> , 19 <sup>th</sup> , 20 <sup>th</sup> (16 <sup>th</sup> collected minimal information)
Pre-mediation surveys	1 <sup>st</sup> , 17 <sup>th</sup> , 19 <sup>th</sup> , 20 <sup>th</sup> (6 <sup>th</sup> (Champaign) and 21 <sup>st</sup> collected minimal information)
Mediation surveys	16 <sup>th</sup> , 17 <sup>th</sup> , 19 <sup>th</sup> (1 <sup>st</sup> and 20 <sup>th</sup> collected them for the rare mediations conducted)

### Post-Session Reports

The online system included online reports to be completed by the person charged with conducting the sessions. The reports collected data on whether or not the session was held, the reason it was not held, and what the result of the session was, if it was held. If it was the concluding session, the final outcome was recorded, as well. Finally, the reports included the amount of time spent in the session and whether the parties complied with the court rules.

These reports were completed after each session. In the 17<sup>th</sup> Circuit and 19<sup>th</sup> Circuit programs, the pre-mediation session report was completed by the housing counselor. In the 6<sup>th</sup> Circuit and 20<sup>th</sup> Circuit programs, the outcomes were entered by the program coordinator. The reports were not completed in the 16<sup>th</sup> Circuit nor 21<sup>st</sup> Circuit programs. The mediation session reports were completed by the mediators in the 1<sup>st</sup> Circuit, 16<sup>th</sup> Circuit, 17<sup>th</sup> Circuit, 19<sup>th</sup> Circuit and 20<sup>th</sup> Circuit programs.

### Post-Session Surveys

Participant surveys were created in a paper-and-pencil format for pre-mediation and mediation sessions. For the 1<sup>st</sup> Circuit program, an intake session survey was developed, and for the 19<sup>th</sup> Circuit program, a survey was created for its group informational session as well. The surveys were designed as optical mark recognition forms that allowed them to be scanned into software that automatically read the participants' responses into the database.

### Informational Session Surveys

Surveys for the group informational session in the 19<sup>th</sup> Circuit program examined whether the goals of the session were met and provided an opportunity for the homeowners to rate the presenter. They also collected the same demographic data as is collected in the online case management and data collection system. The surveys were passed out to homeowners at the end of the sessions. They were available in English and Spanish.

**Initial Intake Conference Surveys**

This survey was completed after the initial intake conferences in the 1<sup>st</sup> Circuit and 20<sup>th</sup> Circuit programs. It asked the homeowners how much they learned about their options and whether they understood how to complete their loan modification packet. It also asked how they were treated and how satisfied they were with their experience. The program coordinator stepped away while the homeowners completed their surveys.

**Pre-Mediation Session Surveys**

The survey completed after pre-mediation sessions in all programs asked the homeowners about how much they learned about their options and how to work with their lender, how they were treated, and their overall satisfaction. The survey was available in English and Spanish.

Programs had different practices for distributing the surveys:

- In the 17<sup>th</sup> Circuit and 19<sup>th</sup> Circuit programs, the housing counselor handed each of the homeowners the survey after their last session. The homeowners completed the surveys after their housing counselor stepped away.
- In the 6<sup>th</sup> Circuit and 21<sup>st</sup> Circuit programs, the program coordinator asked the homeowners to complete the surveys after their first pre-mediation session. The homeowners had already left their session and were, therefore, no longer in the same room as the person with whom they met for their session.
- In the 1<sup>st</sup> Circuit and 20<sup>th</sup> Circuit programs, the program coordinator asked the homeowners to complete the surveys after their final pre-mediation session. This meant that they completed it after they completed the program and had negotiated with their lender, in most cases. The program coordinator stepped away while the homeowners completed the surveys.

**Mediation Session Surveys**

Parties and attorneys completed separate mediation session surveys. The surveys were adapted from the model forms developed by a joint project of Resolution Systems Institute (RSI) and the American Bar Association Section of Dispute Resolution. These forms were the product of a national committee of researchers and program administrators and had been tested in two mediation programs prior to their use for the Illinois foreclosure mediation programs.

The surveys examined procedural justice factors, mediator coercion and helpfulness, fairness, and satisfaction. The survey for attorneys also asked whether they would use their mediators again. The party survey was available in English and Spanish.

The participants were asked to complete the post-session survey at the end of each session.<sup>30</sup> The mediator asked the participants to complete their surveys, and then left the room. Because representatives for the lender participated by phone, lender attorneys read them the questions and filled out the surveys for them. For the evaluation, only the last survey completed by each participant was used to calculate aggregate responses.

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<sup>30</sup> The surveys were not used in the 6<sup>th</sup> Circuit (Champaign), 6<sup>th</sup> Circuit (Macon) and 21st Circuit programs.

## Interviews

In 2015, the evaluator interviewed all program coordinators, as well as a judge in each of the programs, except the 1<sup>st</sup> Circuit, 6<sup>th</sup> Circuit (Champaign), 6<sup>th</sup> Circuit (Macon) and 21<sup>st</sup> Circuit programs. She also interviewed others involved in the programs, if they were extensively involved in a program's administration. This included the housing counselor in the 17<sup>th</sup> Circuit program and a mediator who managed the cases and conducted half of the sessions in the 21<sup>st</sup> Circuit program. Two lender attorneys were also interviewed. All interviews were semi-structured and conducted over the phone. For all but the program coordinators, the interviews lasted 20 to 30 minutes. The program coordinator interviews took about two hours each.

In 2015, the evaluator again interviewed the program coordinators for all the programs, with the exception of the 21<sup>st</sup> Circuit program. The purpose of those interviews was to learn about any changes to the programs and how any challenges that had been identified in the 2015 interviews had been addressed. The program administrator for the 21<sup>st</sup> Circuit program answered these questions via email. The interviews lasted 30 – 45 minutes.

## LIMITATIONS OF THE STUDY

In setting up the online system for data collection purposes, the evaluator aimed to have uniform data and uniform definitions of what each field represented. However, the programs, at times, developed their own uses for some of those fields and definitions that did not coincide exactly with the other programs. In order to make the data more uniform, the evaluator redefined the fields when analyzing the data; however, there may be some skewing of the data because of the differences in how the data was collected.

Additionally, program coordinators in different programs appear to have defined the same outcomes differently. For example, in the 1<sup>st</sup> Circuit and 20<sup>th</sup> Circuit programs, if the homeowners did not appear for a third pre-mediation session, they were considered to have been able to discuss their options with their lender, and the outcome was entered as a no agreement. In contrast, in the 19<sup>th</sup> Circuit program, if the homeowners didn't appear for a second mediation session, the outcome was entered as "program not completed", because the case was returned to court due to homeowner non-compliance. These differences skewed the comparisons of completion rates between programs.

Statistical analysis was also limited by the inconsistent collection of data among the programs. Not all programs collected demographic data, not all programs collected information on the reason for default, and not all programs collected information on the owner of the loan, among other variables. Further, those programs that did collect that data weren't able to collect it for every case. Therefore, analysis of factors that affect participation and outcomes was limited in both what factors could be analyzed and the strength of the conclusions that could be drawn from the analysis conducted.

The evaluation was conducted by an employee of RSI. Her status as an employee of RSI may have led to an unconscious bias when evaluating the programs administered by RSI, although she guarded against it.

# Appendix C

## Evaluation Instruments

**Illinois Foreclosure Mediation Program  
INITIAL INTAKE CONFERENCE SURVEY**

To help us to maintain the quality of the foreclosure mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to improve our services. No identifying information about you will be released.

Case Number:

Date:

The following questions ask about your experience with the initial intake conference. Please fill in one circle for each question.

**Answer Selection:** Correct = ● Incorrect = ☒ ☑ ☐

	Not at all	Somewhat	Very much
1. Did the administrator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Did the administrator treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Do you understand <u>how the foreclosure process works</u> better than you did before the conference?			
<input type="radio"/> No, I still don't understand.			
<input type="radio"/> No, because I understood before the conference.			
<input type="radio"/> Yes, somewhat better.			
<input type="radio"/> Yes, very much better.			
4. Do you understand <u>the options you have regarding your home</u> better than you did before the conference?			
<input type="radio"/> No, I still don't understand my options.			
<input type="radio"/> No, because I understood my options before the session.			
<input type="radio"/> Yes, somewhat better.			
<input type="radio"/> Yes, very much better.			
5. If you received your loan modification packet, do you understand what you need to do to complete it?			
<input type="radio"/> Not at all			
<input type="radio"/> Somewhat			
<input type="radio"/> Very well			
<input type="radio"/> I don't know what this means			
6. How satisfied are you with your <u>overall experience</u> with the intake conference?			
<input type="radio"/> Very unsatisfied			
<input type="radio"/> Unsatisfied			
<input type="radio"/> Satisfied			
<input type="radio"/> Very satisfied			





**FORECLOSURE MEDIATION PROGRAM  
PRE-MEDIATION EVALUATION FOR PARTIES**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

**Answer Selection:** Correct = ● Incorrect = ☒ ☑ ☐

1. What is your role in the case?

- ☐ Homeowner  
☐ Other: \_\_\_\_\_

The following questions ask about your experience during the pre-mediation conference. Please fill in one circle for each question.

	Not at all	Somewhat	Very much
2. Did the conference help you to communicate with your lender?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Did the conference help you to understand what you needed to do to complete your loan modification packet?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Not at all	Somewhat	Very much
4. How much did the administrator understand what was important to you?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Did the administrator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Did the administrator treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
7. How satisfied are you with the <u>outcome</u> of the conference?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the conference?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



9. Overall, was the process fair?

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

**Please let us know more about your experience:**

10. Please let us know what you liked about the conference:


11. Please let us know what you didn't like about the conference:





## FORECLOSURE MEDIATION PRE-MEDIATION SESSION REPORT

Please fill out this form after your pre-mediation session.

Final Report	<input type="checkbox"/> Yes <input type="checkbox"/> No
Type of Service	<input type="checkbox"/> Facilitated Bi-Lateral Session <input type="checkbox"/> Housing Counseling Session <input type="checkbox"/> Pre-Mediation Session <input type="checkbox"/> Legal Services (Required)
Was the session held?	<input type="checkbox"/> Yes, Service Completed (R) <input type="checkbox"/> Yes, Service Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Session Rescheduled
Session Date	<input type="text"/> mm/dd/yy 
Time Spent in Session (hours; can be in portions: 1.25 etc)	<input type="text"/>
Final Session Result	<input type="checkbox"/> Referred to mediation <input type="checkbox"/> Referred to other service <input type="checkbox"/> Accepted homeowner as client (legal services only) <input type="checkbox"/> Return to court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement <input type="checkbox"/> Other (indicate below)
Reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>
Reason case rescheduled or continued (check all that)	<input type="checkbox"/> Servicer required new packet

## FORECLOSURE MEDIATION PRE-MEDIATION SESSION REPORT

apply)	<input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner did not provide sufficient documents <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If "other" above, reason rescheduled/continued	<input type="text"/>
Which service was homeowner referred to?	<input type="checkbox"/> Land of Lincoln Legal Services <input type="checkbox"/> Prairie State Legal Services <input type="checkbox"/> Bankruptcy attorney <input type="checkbox"/> Credit/debt management agency <input type="checkbox"/> Social services agency (select below) <input type="checkbox"/> Other (indicate below)
If "particular agency" above, which one?	
If "other" above, which other service was the homeowner referred to?	<input type="text"/>
Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input type="text"/>
If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement

**FORECLOSURE MEDIATION  
PRE-MEDIATION SESSION REPORT**

	<input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short sale <input type="checkbox"/> Deed in Lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If not, who didn't comply? (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner



**FORECLOSURE MEDIATION  
EVALUATION FOR PARTIES**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

**Answer Selection:** Correct = ● Incorrect = ☒ ☑ ☐

1. What is your role in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: \_\_\_\_\_

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Were you able to talk about the issues and concerns that were most important to you?

- ☐ I was able to talk about **none** of the issues and concerns that were most important to me.
- ☐ I was able to talk about **some** of the issues and concerns that were most important to me.
- ☐ I was able to talk about **most** of the issues and concerns that were most important to me.
- ☐ I was able to talk about **all** of the issues and concerns that were most important to me.

3. Was the mediator active enough in helping you to work out the issues in the dispute?

- ☐ No
- ☐ Yes

	Not at all	Somewhat	Very much
--	------------	----------	-----------

4. How much did the mediator understand what was important to your side?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

5. Did the mediator treat you with respect?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

6. Did the mediator treat you fairly?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

7. Did the mediator push too hard to get you to settle?

- ☐ No
- ☐ Yes



**8. To the best of your knowledge, were any of the following true at the time of the mediation? Please fill in the circle for all that apply**

- A. ☐ Some information that would have been helpful in the settlement discussions was not available at the mediation.
- B. ☐ When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be.
- C. ☐ The time we had to mediate was too short.
- D. ☐ One or more participants did not have authority to settle.
- E. ☐ There was anger/hostility between the other party and me.
- F. ☐ There was a large power imbalance between the other party and me.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**11. Overall, was the mediation process fair?**

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

**Please let us know more about your experience:**

**12. Please let us know what you liked about the mediation:**

**13. Please let us know what you didn't like about the mediation:**



**ILLINOIS FORECLOSURE MEDIATION PROGRAM**  
**EVALUATION FOR ATTORNEYS**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

**Answer Selection:** Correct = ● Incorrect = ✗ ✓ ⊖

1. Which party did you represent in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: \_\_\_\_\_

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Was your side able to talk about the issues and concerns that were most important to you?

- ☐ We were able to talk about none of the issues and concerns that were most important to us.
- ☐ We were able to talk about some of the issues and concerns that were most important to us.
- ☐ We were able to talk about most of the issues and concerns that were most important to us.
- ☐ We were able to talk about all of the issues and concerns that were most important to us.

3. Was the mediator active enough in helping the parties work out the issues in the dispute?

- ☐ No
- ☐ Yes

	Not at all	Somewhat	Very much
--	------------	----------	-----------

4. How much did the mediator understand what was important to your side?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

5. Did the mediator treat you with respect?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

6. Did the mediator treat your side fairly?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

7. Did the mediator push too hard to get your side to settle?

- ☐ Yes, the mediator pushed too hard
- ☐ No, the mediator did not push too hard



**8. To the best of your knowledge, which of the following were true at the time of the mediation?**

*Please fill in the circle for all that apply*

- A. ☐ Additional documents were needed.
- B. ☐ A question of law needed to be determined.
- C. ☐ The time scheduled for mediation was too short.
- D. ☐ The case required a mediator with a different skill set.
- E. ☐ One or more participants did not have authority to settle.
- F. ☐ There was a high level of anger/hostility in the relationship between the parties.
- G. ☐ There was a large power imbalance between the parties.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**11. Overall, was the mediation process fair?**

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

**12. If given the choice, would you use this mediator again?**

- ☐ Yes
- ☐ No
- ☐ Possibly

Why or why not?

**13. How many mediations have you participated in prior to this mediation?**

- |                             |                                     |
|-----------------------------|-------------------------------------|
| <input type="radio"/> None  | <input type="radio"/> 26-50         |
| <input type="radio"/> 1-10  | <input type="radio"/> 51-100        |
| <input type="radio"/> 11-25 | <input type="radio"/> More than 100 |



14. What, if anything, made the mediation effective?

15. What could have improved the mediation?





## ILLINOIS FORECLOSURE MEDIATION PROGRAM EVALUATION FOR MEDIATORS

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Case Number:

Date:

**1. To the best of your knowledge, which of the following were true at the time of the mediation?**

*Please fill in the circle for all that apply*

- A. ☐ Additional documents were needed.
- B. ☐ A question of law needed to be determined.
- C. ☐ The time scheduled for mediation was too short.
- D. ☐ One or more participants did not have authority to settle.
- E. ☐ There was a high level of anger/hostility in the relationship between the parties.
- F. ☐ There was a large power imbalance between the parties.

2. Please indicate the number of people who attended any of the mediation sessions either in person or by phone (not including people a party may have contacted outside your presence):

**Fill in the circle for each type**

	0	1	2	3	4	5	6+	N/A
Homeowners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lender/servicer representatives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attorneys for homeowners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attorneys for lender/servicer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Others (e.g. witness, experts, support person for a party)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. Approximately what percent of time in the mediation (totaling 100%) was spent in (write percent, then fill in the corresponding circles):


Joint session: \_\_\_\_\_

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐  
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐  
☐

Caucus: \_\_\_\_\_

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐  
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐  
☐

## FORECLOSURE MEDIATION PROGRAM MEDIATOR REPORT

Final Report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was mediation held?	<input type="checkbox"/> Yes, Mediation Completed <input type="checkbox"/> Yes, Mediation Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Mediation Rescheduled
If not held, reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>
Reason mediation rescheduled or continued (check all that apply)	<input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner didn't provide sufficient documentation <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If other reason rescheduled or continued, describe	<input type="text"/>
Date of mediation session	<input type="text"/> mm/dd/yy 
Time spent in mediation session (in fractions of hours - e.g., 1.25)	<input type="text"/>
Time spent on case outside of mediation session	<input type="text"/>
Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment

## FORECLOSURE MEDIATION PROGRAM MEDIATOR REPORT

	<input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input type="text"/>
If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short Sale <input type="checkbox"/> Deed in lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent Judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, who didn't comply (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner

## ABOUT THE AUTHOR

Jennifer Shack has been Director of Research at Resolution Systems Institute since 2000. In this role, she conducts complex evaluations of court-based mediation programs and researches the effectiveness of mediation in court settings. As part of RSI's efforts to help courts to monitor the functioning of their mediation programs, she has designed data collection systems that are in use around Illinois. This includes the cloud-based case management and monitoring system used by the Attorney General-funded foreclosure mediation programs.

Nationally, Ms. Shack has led a committee to develop model evaluation forms for civil case mediation programs and serves on the American Bar Association Section of Dispute Resolution Research Task Force. Over the past decade, she has presented on program monitoring and evaluation at numerous conferences.

Ms. Shack's evaluations include comprehensive evaluations of the Child Protection Mediation Programs in Cook County, Illinois, and Washington, DC, as well as evaluations of the mediation programs in the U.S. District Court for the Northern District of Illinois. Ms. Shack has also written a number of articles, including "Mediation in Courts Can Bring Gains, But Under What Conditions?" in *Dispute Resolution Magazine*, Winter 2004, and the co-authored, "Judicial Settlement Databases: Development and Uses," *Judges' Journal*, Winter 2004. Most recently, she co-authored two articles on foreclosure mediation: "Foreclosure Dispute Resolution Programs: Do They Work?" in *Probate and Property*, December 2013, and "A (Mortgage) Crisis in Communication: Foreclosure Dispute Resolution as Effective Response?" in *Arkansas Law Review*, Spring 2013. Ms. Shack also discusses issues related to research on issues related to court ADR on RSI's blog, *Just Court ADR*.

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*Jennifer Shack*

## RESOLUTION SYSTEMS INSTITUTE

Formed in 1995, Chicago-based Resolution Systems Institute is a non-profit organization whose mission is to strengthen access to justice by enhancing court alternative dispute resolution systems through expertise in program development, research, resources, program administration and training.

Founded on the premise that collecting and disseminating reliable information about court ADR can raise the quality of court ADR, RSI has assisted state and federal courts with the design, administration, monitoring, and evaluation of mediation programs, as well as training ADR neutrals. Courts and individuals across the country call on RSI for advice and make use of RSI's [Court ADR Resource Center](#).

With a multi-year grant from the Office of Illinois Attorney General Lisa M. Madigan, RSI has fully implemented the advice we have offered for two decades: Seek stakeholder input. Set goals. Design clear systems. Train skilled neutrals. Collect uniform data. Share information with stakeholders. Assess programs with an expert eye. Never stop working to improve court ADR programs.

For more information about RSI, see [AboutRSI.org](#).