



# **FORECLOSURE DISPUTE RESOLUTION BY THE NUMBERS**

**Jennifer Shack  
Heather Scheiwe Kulp  
September 2012**



**RSI**

RESOLUTION SYSTEMS INSTITUTE

[WWW.ABOUTRSI.ORG](http://WWW.ABOUTRSI.ORG)

# INTRODUCTION

This report presents statistics for those foreclosure dispute resolution programs that have made their data public. The statistics were gleaned from reports, public hearings, program websites and newspaper articles that have obtained data from the programs. They have been standardized as much as possible, with as much of the same data presented for each program as is available.

Also presented are program characteristics that many believe can affect how well a program performs, including whether it is opt-in (voluntary) or opt-out (mandatory), who pays and who the neutrals are. This report does not make any claims about the positive or negative effect of these characteristics on program performance, but presents them simply as information for those who are interested in the intersection between program models and program outcomes.

Because just a few programs provide more than minimal data to the public, the statistics presented here only provide a glimpse of the programs' relative effectiveness. What leads one program to be more effective than another is complex, requiring more analysis than these statistics allow. However, some information can be gleaned from them.

## ANALYSIS

Two things stand out from these statistics. First, there is great variability in the percent of eligible foreclosures going through the programs, regardless of whether they are opt-in or opt-out programs, and in the percent of borrowers who retain their homes through the process. Second, some programs are effective at helping borrowers stay in their homes.

### Variability

Rates of foreclosure cases being referred to dispute resolution range from 5% in Illinois' Circuit Court of Cook County to 97% in Philadelphia. The percent of eligible foreclosure cases participating in dispute resolution varies from 4% to 69%, with the same programs representing the low and high points of the range. Some of this variability is based on program structure. In Cook County, the process of getting cases to mediation involves a number of steps designed to help borrowers understand their situation and the options available to them, aside from foreclosure. In Philadelphia, every eligible foreclosure case is referred directly to conciliation.

Agreement rates also vary considerably, from 21% in Maine to 82% in Connecticut. Only five programs provided information on the percent of all homeowners facing foreclosure who were able to retain their homes through mediation. Those five varied from 2% in the Circuit Court of Cook County to 33% in the District of Columbia. The section below discusses a possible reason for high agreement and retention rates in some programs.

### Effective Programs

There are a few programs that appear to be effective in helping borrowers to retain their homes.

Connecticut's program has been effective both in encouraging borrowers to elect to mediate and in helping them retain their homes once they do. The program, which is opt-in and therefore relies on borrowers to know about and request mediation, has had 43% of eligible borrowers request mediation since the program began. Two-thirds of those who eventually mediate reach an agreement that allows them to stay in their homes. This has led to a retention rate of 15% for all borrowers in foreclosure – the highest of any program except the District of Columbia, which has a much smaller program (with publicly available statistics showing only 63 eligible foreclosures and 27 mediations completed). The opt-out foreclosure mediation program in Will County, Illinois, also has both a relatively high referral rate (41%) and agreement rate (57%), although that program does not track retention information.

Both Connecticut and the District of Columbia have active mediators who are responsible for managing each of their cases, the parties, and timelines during and between mediations. Will County also has strong controls. All borrowers are thoroughly screened at a pre-mediation conference to see if they would be helped by mediation. This screening includes assistance with document exchange and the setting of an exchange timeline. These case management efforts may be the reason for the programs' high resolution rates.

### **CONSIDERATIONS IN INTERPRETING THE STATISTICS**

The above explanation for the success of Connecticut, the District of Columbia and Will County can only be considered a possible explanation until further research is done. Programs are affected by many variables, including those unrelated to its structure or that are outside of its control. For example, how outreach efforts present the program to borrowers may affect the borrowers' decisions to mediate and even how they and the lenders approach the process. Or, lenders may refuse to participate for policy reasons. It is because of these types of issues that analyzing statistics outside the context of an evaluation is not always sufficient to understand why programs are more or less successful.

How statistics are calculated can also affect a program's perceived effectiveness. Although this report standardizes statistical calculations when possible, the available information did not allow for all statistics to be calculated the same way. In Cook County, for example, the borrower is generally not counted as being referred to mediation until after the borrower meets with housing and legal counselors and is then ordered to mediation by the court. This means that the reported rate of referral is much lower than the percent of borrowers who benefit from one of the program's services.

### **CONCLUSION**

The foreclosure mediation programs that are providing statistics about their performance present a picture of great variability, but with evidence that some programs have discovered some blueprints for success. Nonetheless, while a program's characteristics will have an impact on its success, there is currently no empirical evidence pointing to particular characteristics as increasing or reducing a program's effectiveness. Further understanding of what leads one program to be more effective than another requires both more data and more in-depth analysis of the programs themselves.

## CONNECTICUT STATEWIDE

Type  
*Judicial*

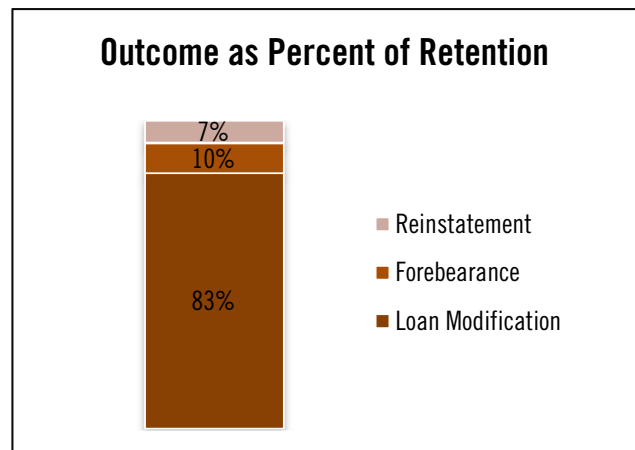
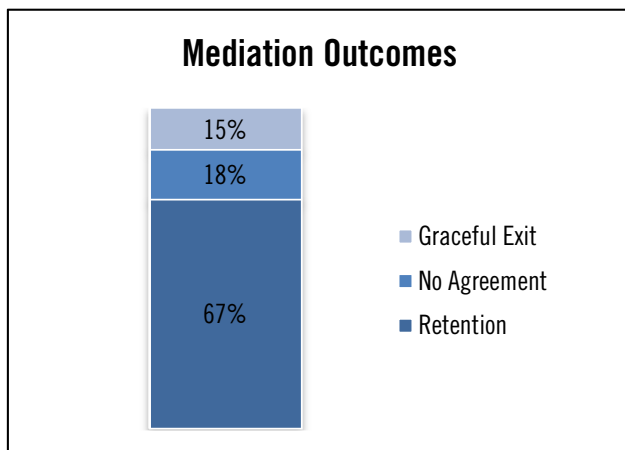
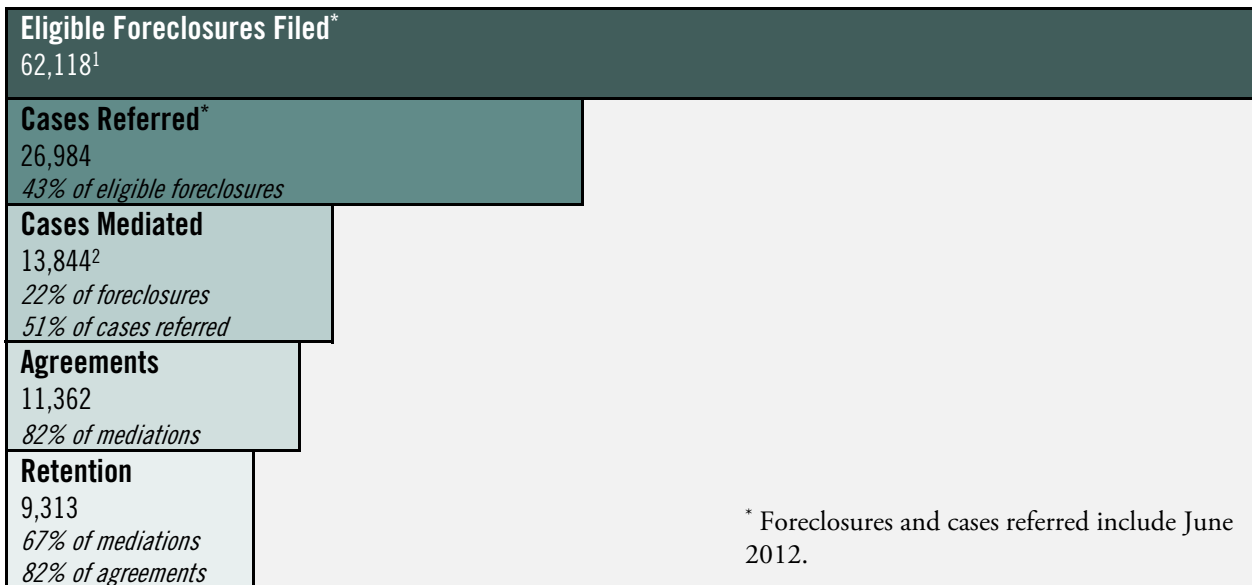
Opt-in/Opt-out  
*Opt-out*

Costs  
*No fee*

Mediators are  
*Court Employees*

**Summary:** About 1/4 of eligible foreclosures in Connecticut are mediated. Once there, 2/3 of borrowers reach agreement to stay in their homes.

**Statistics from:** July 1, 2008 – May 31, 2012



<sup>1</sup>Source: [Connecticut Foreclosure Mediation Program](#)

<sup>2</sup>Source: [Connecticut Judiciary Statistics](#)

## DISTRICT OF COLUMBIA

**Type**  
*Non-Judicial*

**Opt-in/Opt-out**  
*Opt-in*

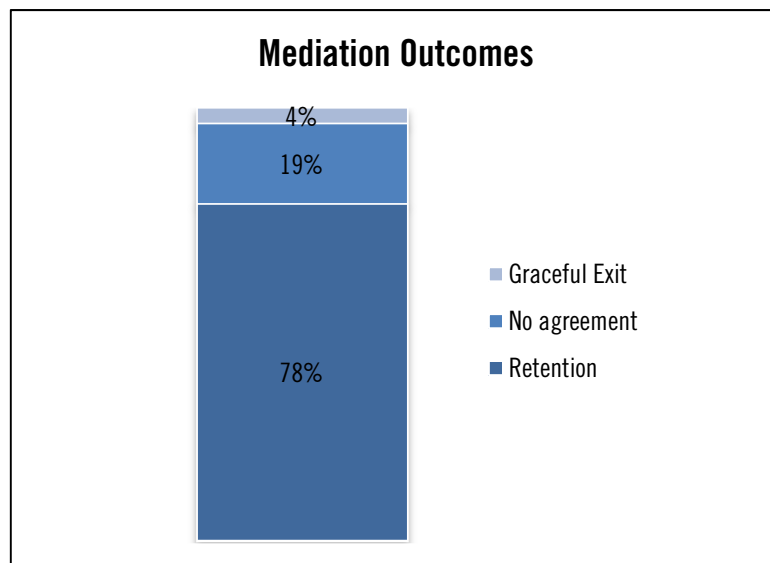
**Costs**  
*Both parties pay*

**Mediators are**  
*Contractors*

**Summary:** About 1/5 of eligible borrowers participate in mediation, and 4/5 of those who participate in the program reach agreement to retain their home.

**Statistics from:** May 1, 2011 – June 30, 2012

Eligible Foreclosures Filed
63
Cases Referred
36 <i>57% of NODs</i>
Cases Mediated
27 <i>43% of foreclosures</i> <i>75% of referrals</i>
Agreements
22 <i>81% of mediations</i>
Retention
21 <i>78% of mediations</i> <i>95% of agreements</i>



Source: Interview with Ben Arnold, D.C. Department of Insurance, Securities, and Banking Foreclosure Mediation Administrator, on September 14, 2012.

## FLORIDA STATEWIDE MANDATORY

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-out*

**Costs**  
*Lenders paid*

**Mediators are**  
*Contractors*

**Summary:** This program was terminated in 2011. Prior to that, about 14% of eligible borrowers participated in mediation, though roughly 34% of those who were contacted participated. 1/4 of those who did participate reached agreement with the lenders.

**Statistics from:** March 1, 2010 – March 31, 2011

Eligible Foreclosures Filed	
78,076	
<b>Cases Referred*</b>	
32,798	
42% of foreclosures	
<b>Cases Mediated</b>	← 14% of foreclosures 34% of cases referred
11,151	
<b>Agreements</b>	
← 2,835	
25% of cases mediated	

\*\*“Cases referred” is the number of borrowers who were contacted to participate in mediation.

Source: [The Florida Legislature Office of Economic and Demographic Research](#)

## FLORIDA BANKRUPTCY

<b>Type</b> <i>Judicial</i>	<b>Opt-in/Opt-out</b> <i>Opt-in</i>	<b>Costs</b> <i>Borrowers pay</i>	<b>Mediators are</b> <i>Contractors</i>
--------------------------------	--	--------------------------------------	--

**Statistics from:** April 10, 2010 – June 30, 2011

Mediations	710
Agreements for borrowers to retain home	250 (35% of mediations)

Source: [\*Tampa Bay Times\*](#)

## HAWAII – 3<sup>RD</sup> JUDICIAL CIRCUIT

<b>Type</b> <i>Judicial</i>	<b>Opt-in/Opt-out</b> <i>Opt-in</i>	<b>Costs</b> <i>No fee</i>	<b>Mediators are</b> <i>Community mediation centers</i>
--------------------------------	--	-------------------------------	--

**Statistics from:** November 1, 2009 – October 31, 2010 & December 1, 2010 – February 29, 2012

<b>Eligible Foreclosures Filed</b> 609	
<b>Cases Referred</b> 47 <i>8% of foreclosures</i>	
←	<b>Agreements: 16</b> <i>34% of cases referred</i>

Source: [\*Circuit Court of the Third Circuit\*](#)

## ILLINOIS – 3<sup>rd</sup> JUDICIAL CIRCUIT

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-in*

**Costs**  
*No fee*

**Mediators are**  
*Volunteers*

**Statistics from:** June 1, 2011 – June 30, 2012

Cases Referred to Mediation	291
Agreements for borrowers to retain home	61

Source: *St. Louis Today*



## ILLINOIS – COOK COUNTY

Type  
*Judicial*

Opt-in/Opt-out  
*Opt-in*

Costs  
*No fee*

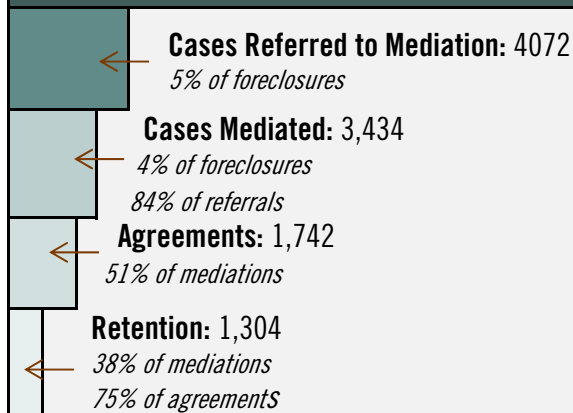
Mediators are  
*Volunteers & Contractors*

**Summary:** Before being referred to mediation, borrowers must go through housing counseling, and/or legal counseling. Approximately 50% of those borrowers who mediate reach agreement to retain their home.

**Statistics from:** April 19, 2010 – April 30, 2012

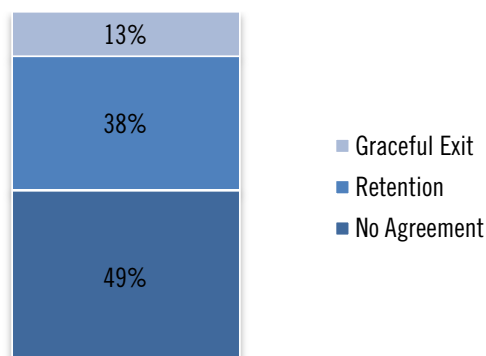
### Eligible Foreclosures Filed\*

77,993



\*This is an estimate based on the number of foreclosures filed in 2010 and 2011, and the court's estimate that 85% of foreclosures are eligible. It is probably a little high.

### Mediation Outcomes



Source: [Cook County Circuit Court Chancery Division](#)

## ILLINOIS – WILL COUNTY

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-out*

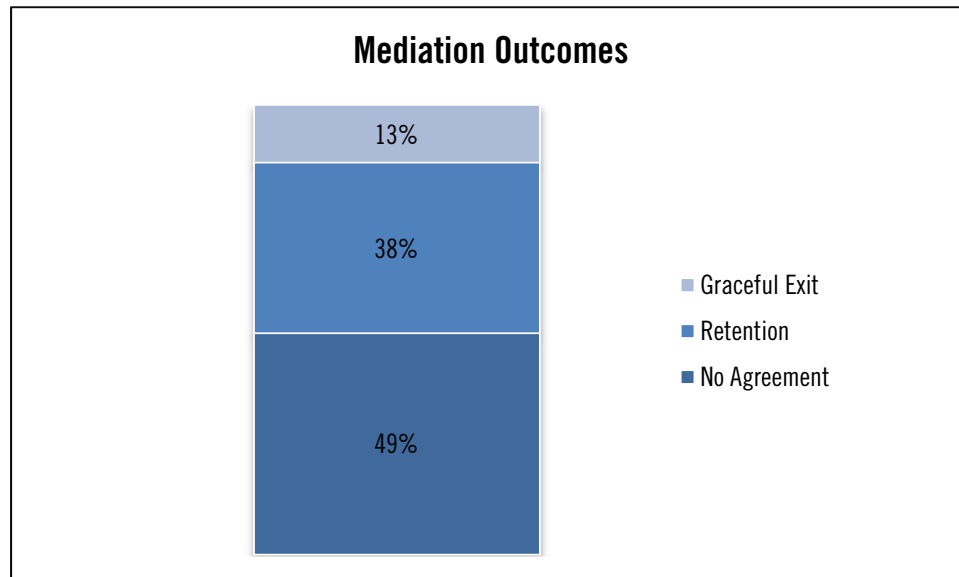
**Costs**  
*Lender pays*

**Mediators are**  
*Contractors*

**Summary:** About 1/4 of eligible borrowers participate in mediation. About 6 in 10 of those who do participate reach some form of agreement with the lender.

**Statistics from:** August 1, 2010 – August 31, 2011

Eligible Foreclosures Filed	
6,542	
<b>Cases Referred</b>	
2,695	
<i>41% of eligible foreclosures</i>	
<b>Cases Mediated</b>	
1,606	
<i>25% of foreclosures</i>	
<i>60% of referrals</i>	
<b>Agreements</b>	
914	
<i>57% of mediations</i>	



Statistics on file with Resolution Systems Institute

## MAINE STATEWIDE

**Type**  
*Judicial*

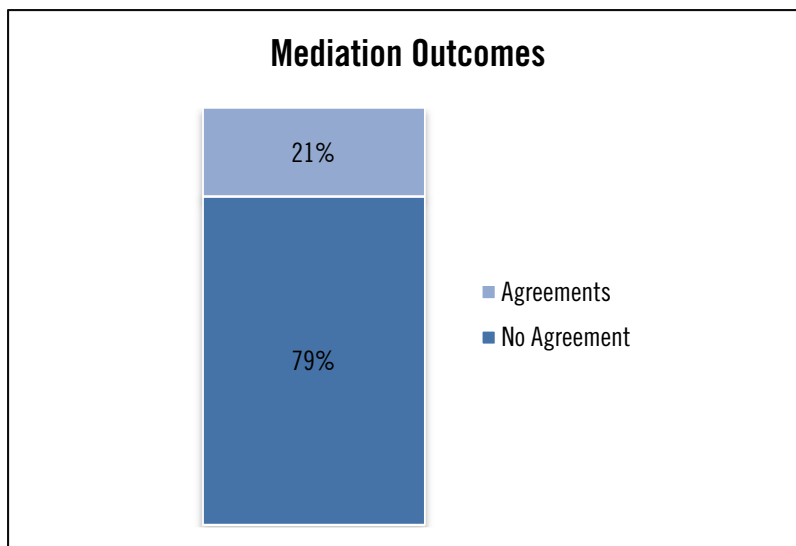
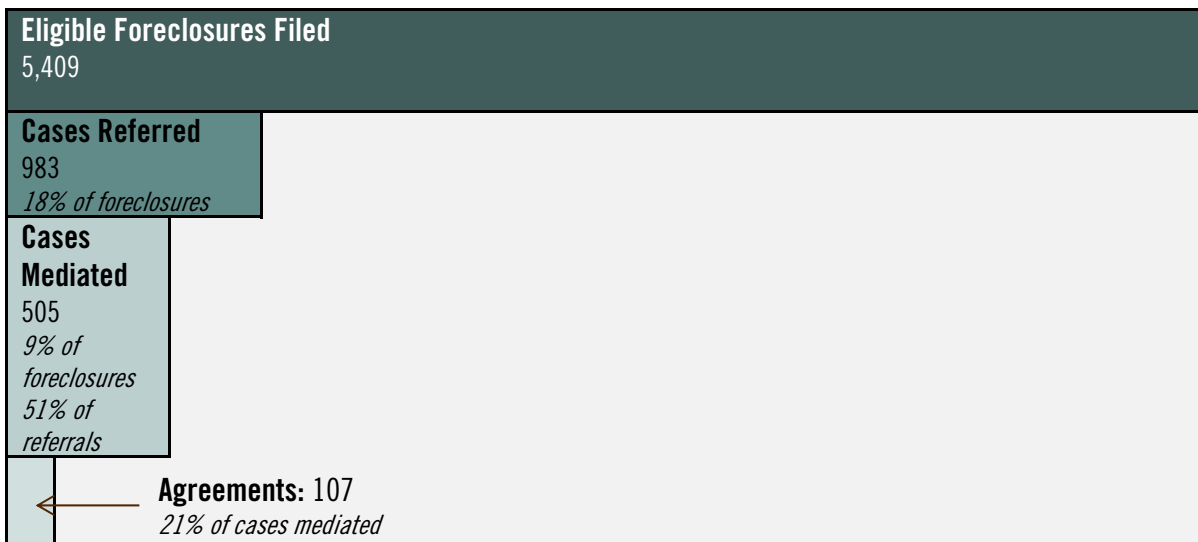
**Opt-in/Opt-out**  
*Opt-in*

**Costs**  
*Lender pays*

**Mediators are**  
*Contractors*

**Summary:** One in 10 eligible borrowers participate in mediation. In 2010, it was reported that 2 in 10 who participated in mediation reached agreement with the lender. Almost half of the mediations did not have a reported outcome.

**Statistics from:** January 1, 2010 – December 31, 2010



Source: [Maine Judicial Branch Foreclosure Mediation Program](#)

## MARYLAND STATEWIDE

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-in*

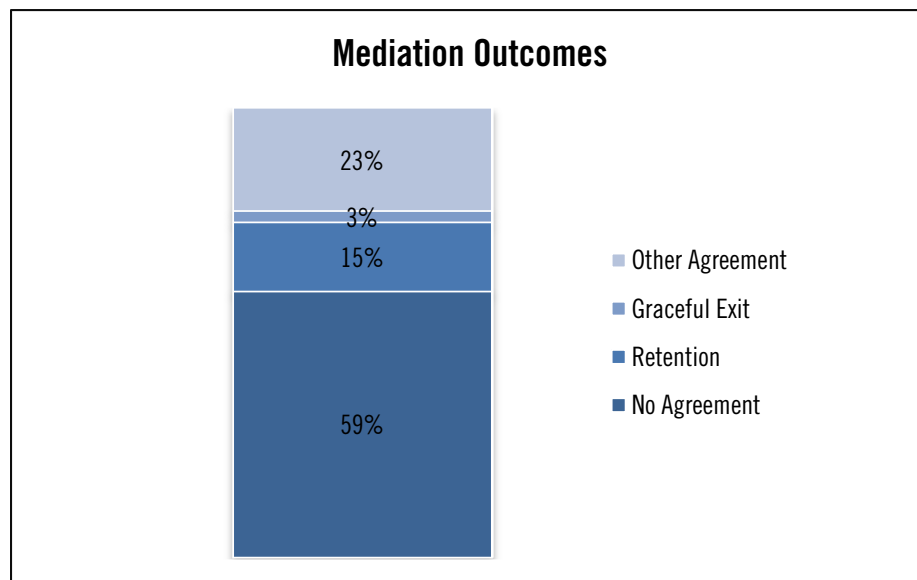
**Costs**  
*Lender pays*

**Mediators are**  
*Contractors*

**Summary:** About 40% of mediations end in agreement, with 15% of borrowers who participate reaching agreement with the lender that allows them to keep their home.

**Statistics from:** July 1, 2010 – July 31, 2011

<b>Cases Mediated</b> 1,180	
<b>Agreements</b> 483 <i>41% of cases mediated</i>	
<b>Retentions</b> 182 <i>15% of cases mediated 38% of agreements</i>	



Source: [Maryland Department of Housing and Community Development](#)

## NEVADA STATEWIDE

Type  
*Non-Judicial*

Opt-in/Opt-out  
*Opt-in*

Costs  
*Both parties pay*

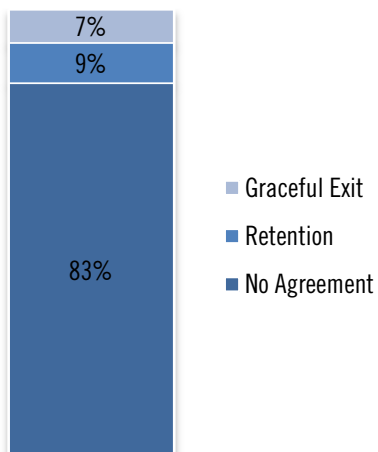
Mediators are  
*Contractors*

**Summary:** About 4 in 10 mediations end in agreements, and 1/4 end with the borrowers retaining possession of their home.

**Statistics from:** September 14, 2009 – March 31, 2012

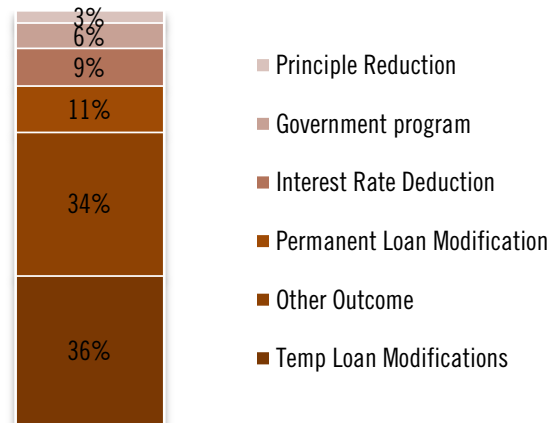
<b>Cases Mediated</b> 17,105	
<b>Agreements</b> 6,491 <i>38% of cases mediated</i>	
<b>Retentions</b> 4,190 <i>24% of cases mediated</i> <i>65% of agreements</i>	

### Mediation Outcomes



### Outcome as Percent of Retention

1/1/12 – 3/31/12



Source: [State of Nevada Foreclosure Mediation Program](#)

## OHIO – CUYAHOGA COUNTY

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-out*

**Costs**  
*Lender pays*

**Mediators are**  
*Contractors*

**Summary:** 1/5 of eligible borrowers participate in mediation,. and 3/5 of those who participate in the program reach agreement with the lender.

**Statistics from:** January 1, 2010 – December 31, 2011

Eligible Foreclosures Filed	
23,696	
<b>Cases Referred</b> 6,960 <i>29% of eligible foreclosures</i>	
<b>Cases Mediated</b> 4,653 <i>20% of foreclosures</i> <i>67% of referrals</i>	
<b>Agreements</b> 2,835 <i>61% of mediations</i>	

Source: Cleveland State University Maxine Goodman Levin College of Urban Affairs,  
*Responding to Foreclosures in Cuyahoga County, 2010 and 2011*

## OHIO – FRANKLIN COUNTY

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-out*

**Costs**  
*Lender pays*

**Mediators are**  
*Contractors*

**Summary:** 1/5 of eligible borrowers participate in mediation, and 3/5 of those who participate in the program reach agreement with the lender.

**Statistics from:** January 1, 2009 – December 31, 2010

Eligible Foreclosures Filed 18,609	
Cases Referred 3,728 <i>20% of foreclosures</i>	
Cases Mediated 2,294 <i>12% of foreclosures 62% of referrals</i>	
← Agreements: 744 <i>32% of mediations</i>	

Source: Franklin County foreclosure mediation program via [\*The Columbus Dispatch\*](#)

## PENNSYLVANIA – PHILADELPHIA

**Type**  
*Judicial*

**Opt-in/Opt-out**  
*Opt-out*

**Costs**  
*Lenders pay*

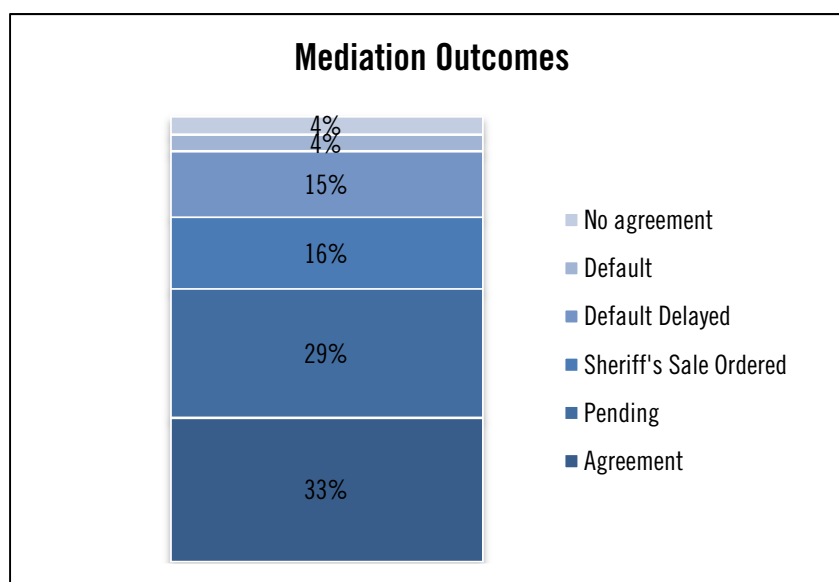
**Mediators are**  
*Contractors*

**Summary:** About 70% of borrowers referred to the program attend mediation. Participating borrowers reach agreement with the lender in 1/3 of the cases.

**Statistics from:** April 14, 2008 – March 31, 2011

<b>Eligible Foreclosures Filed*</b> 16,435	
<b>Cases Referred</b> 15,915 <i>97% of foreclosures</i>	
<b>Cases Mediated</b> 11,061 <i>67% of foreclosures</i> <i>69% of cases referred</i>	
<b>Agreements</b> 3,624 <i>33% of mediations</i>	*This is an estimate taken from calendar years 2008-2011.

Source: [The Reinvestment Fund](#)





## PENNSYLVANIA – ALLEGHANY COUNTY

Type  
*Judicial*

Opt-in/Opt-out  
*Opt-in*

Costs  
*No fee*

Mediators are  
*Judges*

**Statistics from:** January 1, 2009 – July 31, 2011

Cases Mediated	2,221
Agreements	734

Source: [\*Pittsburgh Post-Gazette\*](#)

---

## WASHINGTON STATEWIDE

Type  
*Non-Judicial*

Opt-in/Opt-out  
*Opt-in*

Costs  
*Both parties pay*

Mediators are  
*Community and Private Mediators*

**Statistics from:** April 1, 2011 – March 31, 2012

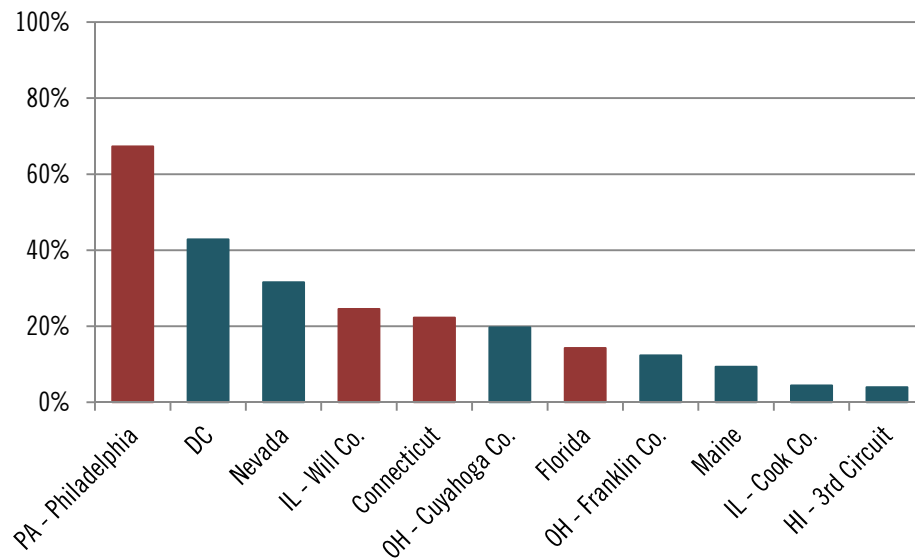
Cases Mediated	364
Retentions	71

Source: [\*Seattle Weekly\*](#)

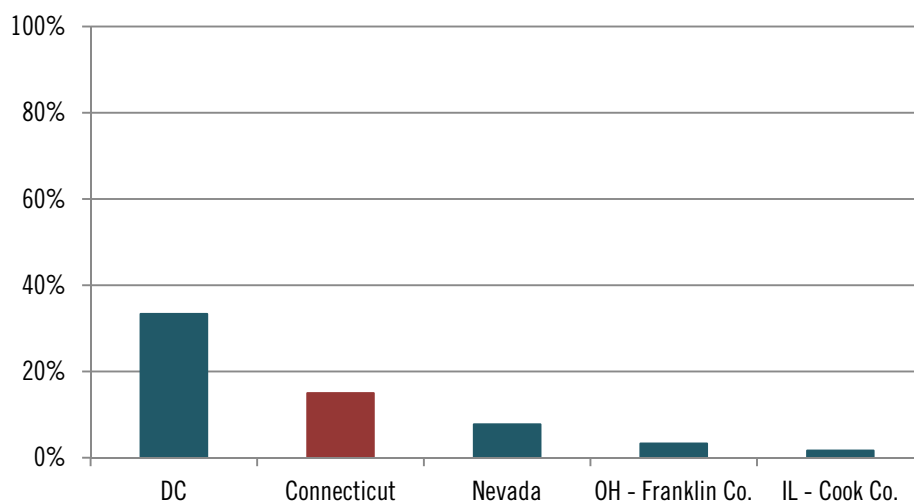
## COMPARISON OF PROGRAMS

### Impact on Foreclosures

**Percent of Foreclosures Mediated**



**Percent of Foreclosures with Homes Retained**

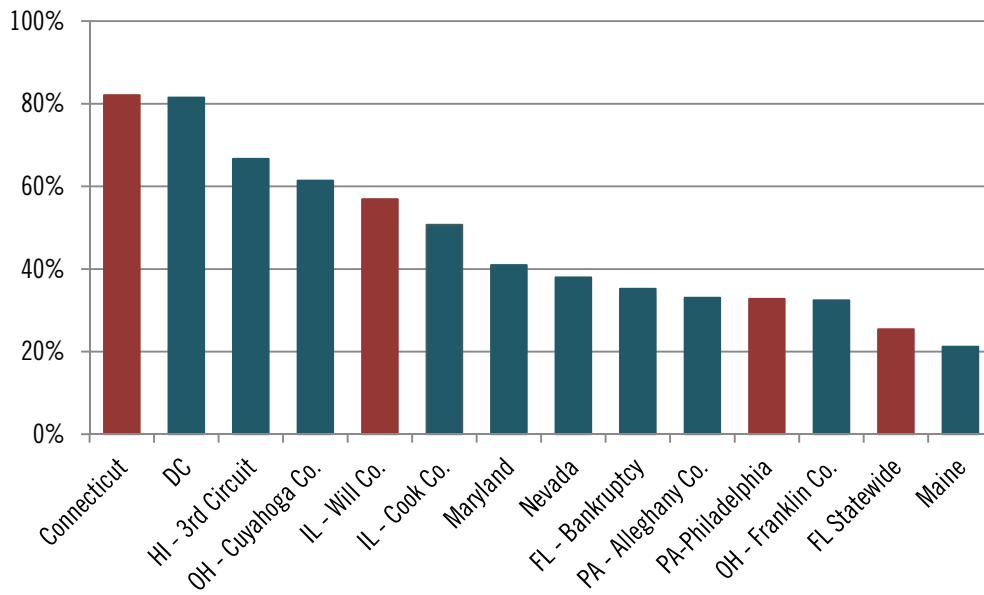


 Red bars denote opt-out programs.

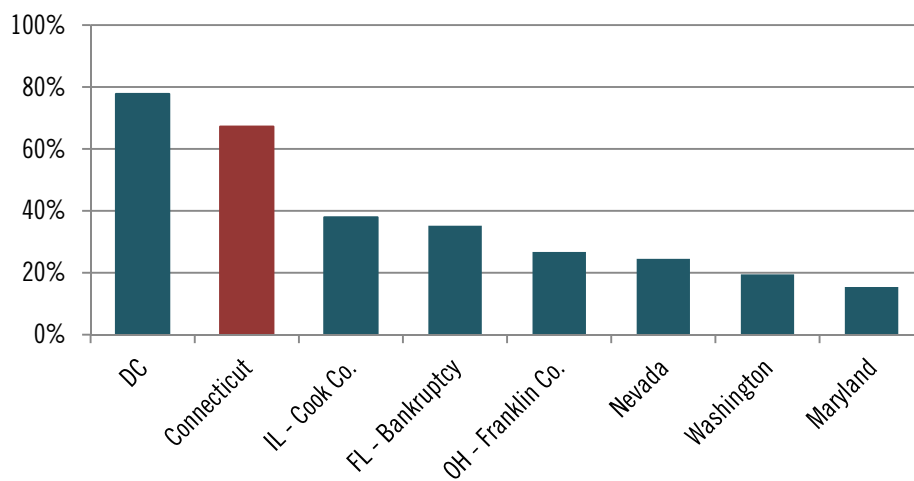
## COMPARISON OF PROGRAMS

### Mediation Outcomes

**Percent of Mediations Reaching Agreement**



**Percent of Mediations Resulting in Retention**



 Red bars denote opt-out programs.