

CALIFORNIA

Cal. Civ. Code § 2923.5 and §§ 2923.52-53.

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered Loans: Residential mortgages made from Jan. 1, 2003 to December 31, 2007.</p> <p>- Duration of program: Sept. 6, 2008 to Jan.1, 2013.</p> <p>- Basic framework: Thirty days before filing notice of default (initial step in non judicial foreclosure), lender must attempt to contact borrower to explore options to avoid foreclosure.</p> <p>- Stay of proceedings: 30 day wait period before lender may begin non judicial foreclosure.</p> <p>- Eligibility for participation: Automatic. Borrower does not have to take any specific action in order to participate.</p> <p>- Time frame: Lender can file notice of default either 30 days after made contact with borrower or 30 days after made “due diligence” attempt to</p>	<p>- Appearance: Program does not require a formal mediation session.</p> <p>- Produce documents/complete forms: No requirement</p> <p>- Proof of standing: No requirement</p> <p>- Produce loan modification/NPV analysis: No requirement</p> <p>- Specific options to consider: Statute requires only that lender attempt to contact borrower “in order to assess the borrower’s financial situation and explore options for the borrower to avoid foreclosure.”</p> <p>- Make proposal: No requirement</p> <p>- Good faith requirement/consequences of bad faith: None. Lender</p>	<p>- Produce documents/complete forms: No requirement</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: No requirement. Borrower receives toll-free number for housing counselor.</p> <p>- Payment for costs: No costs involved.</p>	<p>- Funding: None</p> <p>- Outreach component: None</p> <p>- Volunteer attorney component: None</p> <p>- Limited attorney appearance allowed: No court appearance involved.</p> <p>- Junior lienholder involvement: None</p> <p>- Data collection on results/modifications: none</p> <p>- Restrictions on lender’s fee shifting to homeowner: none</p> <p>- Comment: A separate Cal. statute adds a 90-day delay after notice of default filed and before sale. (Cal. Civ. Code § 2923.52-53 effective May 21, 2009 to Jan. 1, 2011 for first lien residential mortgage recorded Jan. 1, 2003 to Jan. 1, 2008). Applies only to lenders</p>

CALIFORNIA

Cal. Civ. Code § 2923.5 and §§ 2923.52-53.

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
contact borrower. - Mediator: None	required only to file certification that it contacted borrower or attempted with “due diligence” to contact borrower - Payment for costs: No costs involved		not exempted by State’s Commissioner of Corporations. Commissioner may exempt servicers/lenders who are considered to have loan modification systems that meet criteria under statute. Standard exempts most servicers/lenders. With respect to non-exempt lenders, statute creates no homeowner remedies for lender non compliance.

IDAHO (Idaho Code Chapter 15, Title 45 § 45-1506C)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>Covered Loans: Applies to loans made by “a state or federally regulated beneficiary” that are secured by borrower’s primary residence (based upon homestead tax exemption)</p> <p>Duration: Effective September 1, 2011. No sunset specified.</p> <p>Basic framework: Unsupervised loss mitigation review in context of non judicial foreclosures. Notice of right to submit loss mitigation application to servicer delivered to borrower with notice of default. Borrower given 30 days to complete and submit application to servicer. If borrower requests, beneficiary or its agent must have phone or in-person conference with borrower. Trustee must record affidavit of compliance with requirements at least twenty</p>	<p>Appearance: If borrower timely requests conference, the beneficiary or its agent must either meet with the borrower in person or speak with the borrower by phone before the beneficiary makes a decision on the loss mitigation application. A representative who meets with borrower must have obtained or be able to obtain authority to modify loan.</p> <p>Produce documents: There is no requirement for beneficiary to produce evidence of a loan modification analysis or other documentation of loss mitigation consideration.</p> <p>Proof of standing: No requirement for beneficiary to show standing to foreclose.</p> <p>Produce loan modification/NPV analysis: No requirement.</p>	<p>Produce documents: During 45-day period for beneficiary to review loss mitigation application, servicer may require borrower to produce additional information.</p> <p>Make proposal: Borrower must complete application for loss mitigation in form provided by servicer.</p> <p>Work with housing counselor: No specific requirement.</p> <p>Payment for costs: No costs involved.</p>	<p>Funding: There is not a formal program to fund.</p> <p>Outreach component: Not addressed in statute</p> <p>Volunteer attorney: No specific attorney program, but presumably attorney may assist borrower with conference.</p> <p>Limited attorney Appearance: Not applicable as is non judicial foreclosure</p> <p>Junior lienholder: Not addressed in Act.</p> <p>Data collection: No oversight of outcomes of process. Trustee’s filing of affidavit of compliance deemed conclusive evidence of service of notice and response to borrower.</p> <p>Restrictions on lender’s fees</p>

IDAHO (Idaho Code Chapter 15, Title 45 § 45-1506C)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>days before sale. Recording of affidavit is “conclusive evidence” of compliance.</p> <p>Eligibility: Tax exemption for property must have been granted for year in which notice of default is recorded. Borrower must return application for loss mitigation (“modification request form”) within thirty days of receipt.</p> <p>Time frame: Servicer must respond to loss mitigation application within 45 days of receipt. Sale may not take place during the 45 day period for review. Servicer’s affidavit of compliance must be filed at least twenty days before sale.</p> <p>Mediator: Statute does not provide for third party mediator or other supervision of application process or conferences.</p>	<p>Make proposal: No requirement other than that trustee file affidavit stating borrower was provided with notice of loss mitigation application and that beneficiary reviewed application.</p> <p>Good faith: No requirement.</p> <p>Payment for costs: No costs involved.</p>		<p>shifting: Not addressed in Act.</p> <p>Comments: State AG (not borrower) may enforce statute, seek penalties and fees, apply UDAP standards</p>

INDIANA (Senate Enrolled Act No. 492, as amended 2011 by Senate Bill 582)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered Loans: First lien residential mortgages</p> <p>- Duration of program: Effective July 1, 2009, including cases filed before that date if judgment not entered.</p> <p>- Basic framework: Along with complaint lender must serve borrower with notice on first page of summons of right to participate in a settlement conference. The court also sends borrower the notice, sent to address provided by creditor.</p> <p>- Stay of proceedings: When the borrower has contacted the court to request a settlement conference the court will not grant dispositive motions until notified of either a settlement or the conclusion of mediation without an agreement. A request for a conference is treated as an entry of appearance.</p>	<p>- Appearance: An attorney for the lender must attend the settlement conference and an authorized representative must be available by phone during the conference. The court at its discretion may order that any party to the foreclosure action appear at or participate in a conference. Lender must ensure that any person representing it at a settlement conference or in any negotiations with the debtor has authority to make agreements. The parties may present court with stipulation to have conference by phone. The 2011 amendments prohibit the creditor from fees shifting associated with a settlement conference or for penalties assessed against the creditor</p> <p>- Produce documents/complete forms: Thirty days prior to the conference the lender must provide the borrower with a copy of the original note and</p>	<p>- Appearance: Homeowner must appear. An attorney or housing counselor may appear by phone. Parties may stipulate to have conference by phone.</p> <p>- Produce documents/complete forms: Effective for foreclosures filed after June 30, 2011, 30 days before a settlement conference the borrower must serve the court and the creditor’s counsel with a “loss mitigation package.” The content of the package is defined by regulation of the state Housing and Community Development Authority. The requirements include documentation of expenses, pay stubs, two months of bank statements, two years of tax returns, proof of government benefits and a worksheet itemizing expenses. The court may issue a foreclosure judgment if the borrower fails timely to provide one or more of the packet documents.</p>	<p>- Funding: Limited funding through increased complaint filing fee.</p> <p>- Outreach component: No specific program.</p> <p>- Volunteer attorney component: The 2011 amendments to the law include provisions to use some of the filing fee revenue created under the law to fund pro bono legal services agencies and foreclosure counselors.</p> <p>- Limited attorney appearance allowed: Not specified.</p> <p>- Junior lienholder involvement: No requirement.</p> <p>- Data collection on results/modifications: No</p> <p>- Restrictions on lender’s fee shifting to homeowner: No.</p> <p>- Other Comments: In a provision added for</p>

INDIANA (Senate Enrolled Act No. 492, as amended 2011 by Senate Bill 582)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Eligibility for participation: Within 30 days of receiving notice, homeowner must notify court of intent to participate in a conference. Notice of right to conference need not be sent if the loan was subject of a prior agreement under the settlement procedure and debtor defaulted. The court may also exempt a case if it finds that a conference would “be of limited value based on the result of a prior loss mitigation effort between the creditor and the debtor”.</p> <p>- Time frame: The notice from court orders lender and borrower to conduct conference on or before a specified date. Date must be not less than 25 days after the date of notice or later than 60 days after the date of the notice. Court may order reconvening of conference at any time before judgment entered.</p> <p>- Mediator: Participation by judicial officer in conference</p>	<p>mortgage, a payment record substantiating the default, an itemization of all amounts claimed due, a payment history, and any other documents the court determines are needed.</p> <p>- Proof of standing: Not required, but lender to bring to settlement conference a “copy of the original note and mortgage.”</p> <p>- Produce loan modification/NPV analysis: Not required.</p> <p>- Specific options to consider: No specific options, other than stated statutory purpose of conference as to attempt to negotiate a foreclosure prevention agreement.</p> <p>- Make proposal: No specific requirement.</p> <p>- Good faith requirement/consequences of bad faith: No requirement.</p>	<p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Statute requires that notice of settlement conference encourage the homeowner to contact a housing counselor before date of conference, and provides contact information for counselors.</p> <p>- Payment for costs: No costs for borrower</p>	<p>foreclosures filed after June 30, 2011, the court may order borrower to make mortgage payments to the court or into an attorney trust account. The payments may be set at a level determined affordable by the court. The monthly amount cannot be more than the pre-default mortgage payment amount. If a judgment is entered, the escrowed payments go to the creditor.</p>

INDIANA (Senate Enrolled Act No. 492, as amended 2011 by Senate Bill 582)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
not required.	- Payment for costs: Statute adds a \$50 court filing fee for mortgage foreclosure action filed after effective date until Jan. 1, 2013, with fees to be used for home ownership education.		

MASSACHUSETTS (Chapter 258 of the Acts of 2010) M.G.L.A. 244 § 35A

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered Loans: Loans made primarily for personal, family or household purposes secured wholly or partially by a mortgage on residential property. Property must have accommodations for four or less separate households and be primary residence of borrower.</p> <p>- Duration of program: Effective for notices of right to cure served beginning August 7, 2010.</p> <p>- Basic framework: Statute increases borrower's time period to exercise right to cure default from 90 to 150 days. However, period reduced back to 90 days if lender certifies attempted in good faith to confer with borrower about loan modification.</p> <p>- Stay of proceedings: Massachusetts is a non judicial foreclosure state. The right to cure period delays scheduling a</p>	<p>- Appearance: No requirement for lender/servicer to appear for conference or mediation. To shorten cure period, lender must confer in person or by phone with borrower or borrower's representative. The lender's representative who confers with the borrower must have authority to modify the loan.</p> <p>- Produce documents/complete forms: Lender certifying good faith effort to confer must file with land court and give homeowner and commissioner of division of banks an affidavit stating time and place of meetings, relief offered the borrower, a summary of the creditor's net present value analysis and applicable inputs of the analysis and certification that any modification or option offered complies with current federal law or policy. Documentation of good faith</p>	<p>- Appearance: Borrower who does not respond within 30 days to communication from lender offering a loan modification is deemed to have rejected it and is limited to 90 day cure period.</p> <p>- Produce documents/complete forms: No requirement under statute</p> <p>- Make proposal: No requirement.</p> <p>- Work with housing counselor: Not required, but lender may satisfy conference requirement by conferring with housing counselor representing borrower.</p> <p>- Payment for costs: No costs for borrower</p>	<p>- Funding: Not a funded conference program.</p> <p>- Outreach component: No specific program.</p> <p>- Volunteer attorney component: No specific related program.</p> <p>- Limited attorney appearance allowed: Not a judicial foreclosure.</p> <p>- Junior lienholder involvement: No requirement.</p> <p>- Data collection on results/modifications: No</p> <p>- Restrictions on lender's fee shifting to homeowner: Under cure provision, borrower cannot be required to pay any attorney's fee, charge, or penalty attributable to cure of default prior to acceleration (except late fees). Acceleration can only occur after the</p>

MASSACHUSETTS (Chapter 258 of the Acts of 2010) M.G.L.A. 244 § 35A

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>non judicial foreclosure sale.</p> <p>- Eligibility for participation: The law creates an incentive for lender and borrower to confer; no requirement for a formal conference or mediation. The provision for a 150-day cure period applies to an individual homeowner once every three years. A borrower who does not respond to a lender's written communication about a conference within 30 days is deemed to have waived the 150-day cure period and is limited to 90 days to cure as under prior law. A lender who does not make good faith effort to have loss mitigation conference must adhere to 150-day delay before can proceed to sale.</p> <p>- Time frame: To shorten cure period to less than 150 days, lender must file and serve affidavit of good faith attempt to confer with borrower about loan modification.</p>	<p>efforts to consider loan modification options must be provided to borrower ten days prior to a conference.</p> <p>- Proof of standing: Not required as part of conference option, but representative of the mortgagee who participate in conference must have authority to modify the mortgage.</p> <p>- Produce loan modification/NPV analysis: The certification filed to shorten the cure period must include a summary of the net present value analysis with appropriate inputs, including HAMP inputs if applicable.</p> <p>- Specific options to consider: Lender must consider borrower's income and circumstances, net present value of foreclosure and non foreclosure options,</p> <p>- Make proposal: In order to shorten cure period lender must</p>		<p>applicable notice period.</p>

MASSACHUSETTS (Chapter 258 of the Acts of 2010) M.G.L.A. 244 § 35A

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Mediator: The law does not require conferences or mediations supervised by a third party.</p>	<p>engage in good faith effort to negotiate a commercially reasonable alternative to foreclosure</p> <p>- Good faith requirement/consequences of bad faith: Lender must either make good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure, or wait for 150-day cure period to expire before proceeding with sale.</p> <p>- Payment for costs: No costs for procedures under the law.</p>		

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered Loans: Properties claimed as principal residence (defined as exempt principal residence under state property tax provision).</p> <p>- Duration of program: Law effective July 5, 2009. Applicable to cases in which first notice of foreclosure published within two years of effective date. In 2011 the legislature extended this law's sunset provision from July 5, 2011 to January 5, 2012.</p> <p>- Basic framework: Lender must give written notice to borrower before initiating foreclosure by advertisement proceeding with foreclosure by sale. Notice must designate a contact person authorized to modify loan. Lender is prohibited from foreclosing by advertising for 90 days from date of notice is mailed if borrower requests meeting with designated contact person. Borrower must request meeting within 14 days of date notice is</p>	<p>- Appearance: Statute provides that "meeting and any later meetings shall be held at a time and place that is convenient to all parties, or in the county where the property is situated." Statute silent on whether all parties can agree to allow an appearance by phone.</p> <p>- Produce documents/complete forms: Lender must give borrower copy of calculations used to determine eligibility for loan modification.</p> <p>- Proof of standing: Under the existing foreclosure by advertisement statute, a party has standing to foreclose if 1)the foreclosing party is the record holder of the mortgage, and 2) the foreclosing party is either the owner of the indebtedness, or the owner of an interest in the indebtedness secured by the mortgage or the servicer.</p> <p>- Produce loan</p>	<p>- Appearance: Statute provides that "meeting and any later meetings shall be held at a time and place that is convenient to all parties, or in the county where the property is situated." Appears to require in person meeting.</p> <p>- Produce documents/complete forms: Lender can request from borrower any documents it deems necessary to determine eligibility for modification, and borrower must provide them.</p> <p>- Make proposal: Borrower must provide information to be used for consideration of loan modification.</p> <p>- Work with housing counselor: Initial notice to borrower of right to request meeting gives list of housing counselors. Borrower must contact housing counselor from the list within 14 days after notice mailed. Counselor gives lender written notice that</p>	<p>- Funding: No state funding.</p> <p>- Outreach component: Legislation does not specify or pay for any outreach effort.</p> <p>- Volunteer attorney component: Initial notice of right to meeting contains the telephone numbers of the state bar of Michigan's lawyer referral service and the local legal aid office.</p> <p>- Limited attorney appearance allowed: Not applicable because foreclosures are non judicial.</p> <p>- Junior lienholder involvement: No</p> <p>- Data collection on results/modifications: None</p> <p>- Restrictions on lender's fee shifting to homeowner: None</p>

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>mailed. Within same period borrower must also contact a housing counselor. The counselor notifies designated lender representative of request and sets up meeting to attempt to work out a loan modification. This is not a mediation program but is a 90-day pre-foreclosure work out/negotiation period. Therefore, no mediator involved.</p> <p>- Stay of proceedings: If borrower requested meeting within 14 days, lender cannot initiate the foreclosure by advertisement proceedings until 90 days after the notice is mailed. If meeting produced finding of eligibility for loan modification and lender refused to implement the modification, the lender must proceed through judicial foreclosure. If meeting shows borrower not eligible for modification or if borrower offered modification under appropriate program and borrower refused offer, lender may foreclose by</p>	<p>modification/NPV analysis: Loan modification analysis yes, NPV analysis, no.</p> <p>- Specific options to consider: Lender must work with borrower to determine whether borrower qualifies for loan modification. Lender must use a loan modification program or process that meets statutory criteria. These criteria include targeting a housing-related debt to income ratio of 38%, interest rate reduction, extension of the amortization period, and deferral of a portion of principal balance. Loans related to GSEs and governmental units may be reviewed using the program's own loan modification guidelines. Parties may stipulate to other loss mitigation strategies and other modification programs. Borrower has right to receive copy of calculations used to determine eligibility for loan modification, including receipt of copy of the program, process or guidelines used.</p>	<p>borrower has contacted a counselor. Counselor may appear with borrower at meeting</p> <p>- Payment for costs: There is no mediation in this program</p>	

MICHIGAN (2009 Enrolled House Bills Nos. 4453, 4454, 4455)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>advertisement.</p> <p>- Eligibility for participation: Within 14 days of when pre-foreclosure notice sent, borrower must make timely request for meeting with the designated contact person, and contact counselor.</p> <p>- Time frame: Ninety day period to consider modification.</p> <p>- Mediator: Not a mediation program, but is a 90-day pre-foreclosure work out/negotiation period. Therefore, no mediator involved</p>	<p>- Make proposal: Lender must conduct review for loan modification under statutory criteria, if the process does not result in an agreement to modify the loan</p> <p>- Good faith requirement/consequences of bad faith: If lender fails to send notice of opportunity for meeting and proceeds to foreclose by advertisement, the borrower may bring an action to enjoin the non judicial foreclosure in the circuit court and convert the foreclosure to a judicial foreclosure. If lender proceeds with non judicial foreclosure without conducting appropriate review for loan modification, borrower may file action in court to convert case to judicial foreclosure.</p> <p>- Payment for costs: There is no mediation in this program.</p>		

OREGON (Enrolled Senate Bill 628)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>- Covered Loans: Properties subject to residential trust deed. Exempts properties secured by a trust deed held or funded by a governmental agency.</p> <p>- Duration of program: Effective for notices of sale sent on or after 60th day following the effective date of law (June 29, 2009).</p> <p>- Basic framework: On or before date notice of sale served, trustee must serve borrower with notice of the possibility of a loan modification, the availability of housing counseling, and a “Modification Request Form.” Borrower may request loan modification and meeting with lender representative to discuss a modification. To request modification borrower must fill out and mail form to lender within 30 days of date of notice. Lender must process request for modification in good faith. Must notify borrower of decision within 45</p>	<p>- Appearance: No requirement for personal appearances. Contact with borrower or borrower’s representative may be by phone or other electronic means.</p> <p>- Produce documents/complete forms: Lender must describe in a recorded affidavit how it complied with obligation to review request for loan modification. However, lender need not provide review for borrowers it determines in good faith are not eligible for a loan modification.</p> <p>- Proof of standing: No requirement.</p> <p>- Produce loan modification/NPV analysis: No specific requirement to produce an analysis, but must describe in affidavit how it complied with obligation to review request for modification.</p>	<p>- Appearance: If meeting takes place, homeowner may appear in person, by phone, or by electronic communication.</p> <p>- Produce documents/complete forms: Homeowner must provide financial information as requested by lender.</p> <p>- Make or respond to proposals: Homeowner must request loan modification, supply financial information.</p> <p>- Work with housing counselor: Not required, but encouraged</p> <p>- Payment for costs: Parties not required to pay costs</p>	<p>- Funding: Bill authorizes use of funds from state’s <i>Countrywide</i> settlement to pay for housing counseling related to this law.</p> <p>- Outreach component: Community groups will be providing outreach.</p> <p>- Volunteer attorney component: Required notices to homeowners at commencement of foreclosure include referral information for pro bono attorney assistance.</p> <p>- Limited attorney appearance allowed: These are non judicial foreclosure proceedings</p> <p>- Junior lienholder involvement: Not specifically designated to receive notices.</p> <p>- Data collection on results/modifications: System to collect data on affidavits of compliance is in development.</p> <p>- Restrictions on lender’s fee</p>

OREGON (Enrolled Senate Bill 628)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
<p>days of receiving request.</p> <p>- Stay of proceedings: On or before date of sale the trustee must receive and record lender’s affidavit stating how it complied with the modification review obligation.</p> <p>- Eligibility for participation: Only borrowers who fill out and timely return modification request form have right to procedures. Lender has no obligation to follow these statutory procedures for a meeting and review of a loan modification if it “determines in good faith, after considering the most current financial information the borrower provides, that the borrower is not eligible for a loan modification.”</p> <p>- Time frame: Lender to reply to request for loan modification within 45 days of receiving request.</p> <p>- Mediator: No provision for</p>	<p>- Specific options to consider: Lender to consider borrower for loan modification, but may consider under any system, so long as it has determined in good faith that the borrower is not eligible.</p> <p>- Make proposal: Lender must respond to borrower’s timely request for a loan modification unless it has previously found borrower ineligible for a modification.</p> <p>- Good faith requirement/consequences of bad faith: Lender must review borrower’s information supporting request for loan modification in good faith.</p> <p>- Payment for costs: No costs associated with review.</p>		<p>shifting to homeowner: No</p>

OREGON (Enrolled Senate Bill 628)

Eligibility Procedures	Lender Obligations	Borrower Obligations	Other Comments
mediator			