

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1042 Session of
2009

INTRODUCED BY MCGEEHAN, DALEY, QUINN, BARBIN, CARROLL, D. COSTA,
DONATUCCI, FREEMAN, GEORGE, JOSEPHS, KORTZ, MELIO,
M. O'BRIEN, PASHINSKI, REICHLEY, SCAVELLO, SIPTROTH, SWANGER
AND WALKO, MARCH 23, 2009

REFERRED TO COMMITTEE ON COMMERCE, MARCH 23, 2009

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in actions, proceedings
3 and other matters generally, providing for mortgage
4 foreclosure conciliation programs.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 5109. Mortgage foreclosure conciliation programs.

10 (a) Program establishment.--The court of common pleas in
11 each county shall establish a residential mortgage foreclosure
12 conciliation program to assist mortgagors and mortgagees in
13 achieving a mutually agreeable resolution to a mortgage
14 foreclosure action.

15 (b) Model guidelines.--The Pennsylvania Supreme Court shall
16 develop model guidelines for the implementation of this section.

17 (c) Eligibility requirements.--

18 (1) A mortgage foreclosure action involving a

1 residential mortgage that is subject to execution to enforce
2 a residential mortgage shall be scheduled for a conciliation
3 conference prior to the entry of judgment in the foreclosure
4 action. The property must be located in this Commonwealth and
5 be a one-family or two-family, owner-occupied structure.

6 (2) A mortgage foreclosure action involving real
7 property that is neither owner-occupied nor residential does
8 not qualify for a conciliation conference under this section.

9 (d) Complaint and notification.--Once a mortgage foreclosure
10 action is initiated by a mortgagee with the filing of a
11 complaint in the county prothonotary's office, the service of
12 the complaint shall include a notice from the court of common
13 pleas informing the mortgagor of the court's residential
14 mortgage foreclosure conciliation program and either provide a
15 scheduled date and time for the conciliation conference or
16 otherwise advise the defendant of the right to attend a
17 conciliation conference prior to the entry of a judgment in the
18 foreclosure action and the process required to schedule such a
19 conference. The mortgagee or the mortgagee's legal
20 representative shall also be notified of the scheduled
21 conciliation conference.

22 (e) Conciliation conference.--

23 (1) The conciliation conference shall be conducted by a
24 civil case manager or other person designated by the court, a
25 judge pro tempore who possesses experience in the subject
26 matter or a judge of the court of common pleas.

27 (2) The conciliation conference shall address all issues
28 of foreclosure, including:

29 (i) Whether the mortgagor is represented and, if not
30 represented, whether volunteer counsel may be available

1 and appointed.

2 (ii) Whether the mortgagor met with a representative
3 of a consumer credit counseling agency.

4 (iii) Whether the consumer credit counseling agency
5 prepared an assessment or report providing options to
6 help resolve the foreclosure action.

7 (iv) Copies of any completed application for
8 mortgage or financial assistance.

9 (v) Mortgagor's income and expense information.

10 (vi) Mortgagor's employment status.

11 (vii) Restructuring of the mortgage debt.

12 (viii) Whether the case may proceed to sheriff sale,
13 if there is no prospect of an amicable resolution.

14 (f) Effect of failure to attend conference.--

15 (1) If a mortgagor fails to appear for a scheduled
16 conciliation conference, the requirement for the conference
17 shall be deemed satisfied upon verification that the required
18 notice was served and, if so, an order shall be issued
19 authorizing the mortgagee to proceed with the action.

20 (2) If the mortgagee or legal representative of the
21 mortgagee fails to appear for a scheduled conciliation
22 conference, the case shall not proceed until a rescheduled
23 conference is held.

24 (g) Reporting.--The court shall compile information relating
25 to the results of the conciliation program and report that
26 information at least annually to the Administrative Office of
27 Pennsylvania Courts to be included in its annual report.

28 (h) Sheriff sale.--Notwithstanding any other provision of
29 law to the contrary, primary residences which are subject to
30 execution to enforce a residential mortgage cannot proceed to a

1 sheriff sale until a conciliation conference is held or the
2 mortgagor fails to appear for the conference as set forth in
3 this section.

4 Section 2. This act shall take effect in 60 days.