

**FOR IMMEDIATE RELEASE**

**April 19, 2011**

**CHIEF JUSTICE THOMAS L. KILBRIDE AND CHIEF JUDGE MICHAEL BRANDT OF PEORIA ANNOUNCE NEW FORECLOSURE MEDIATION PROGRAM FOR PEORIA COUNTY**

Chief Justice Thomas L. Kilbride of the Illinois Supreme Court and Chief Judge Michael Brandt of the 10th Judicial Circuit announced Tuesday a new mediation program to help ease the financial and emotional burden of homeowners, lenders and taxpayers caused by residential mortgage foreclosures in Peoria County.

Chief Justice Kilbride said he is hopeful that the foreclosure mediation program will help keep some families in their homes and help prevent vacant and abandoned houses that drive down property values and destabilize neighborhoods.

The Illinois Supreme Court approved the program which is modeled after one which began last June in Will County. Both programs operate with no expense to taxpayers and are sustained by an increase in filing fees paid by lenders seeking to foreclose.

"This is an important step forward for those who have suffered the effects of our nation's economic crisis in Peoria," said Chief Justice Kilbride. "The Supreme Court has a keen interest in programs that have the strong promise of achieving timely and lasting resolutions to tough problems."

The program in Peoria County not only mirrors the one in Will County, but comes after another mortgage foreclosure initiative was announced last week by the Chief Justice and the Supreme Court. On the recommendation of Supreme Court Justice Mary Jane Theis, the Court appointed a special 14-person committee to study ways to ease the burdens of homeowners and to ensure fairness throughout foreclosure proceedings. It is anticipated that the Committee will propose procedures that can be implemented throughout the state. The Committee will examine the program in Will County and Peoria County as well as the one operating in Cook County, which is partially funded through county funds.

"We are grateful to Chief Judge Brandt, his predecessor, Judge Stuart Borden and those in the community who came together on this model," said Chief Justice Kilbride. "We are hopeful it will help families cope with some of the emotional and financial burdens brought on by the current economic difficulties and help give them a new start on their way to better times."

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## **Peoria County Foreclosure Mediation Program**

### **Add One**

Chief Judge Brandt said that according to records of the circuit clerk, there were nearly 900 foreclosure cases filed in Peoria County in 2010 and about 180 so far this year. Ninety percent of the foreclosures are residential and most are pending because of a general slowing in the legal process by lenders.

"Last week, the Supreme Court announced the formation of a special committee to address hardships associated with residential foreclosures, and the Peoria County courts are pleased to be in the forefront of this initiative as well," said Chief Judge Brandt. "Mediation has proven to be an effective tool in other areas such as family law and general civil litigation in resolving disputes in a fair and amicable manner, and we hope likewise, that the Peoria County Mandatory Residential Mortgagee Foreclosure Mediation Program will prove fair, efficient and effective.

"I am hopeful that both lenders and citizens caught in hard times will benefit by the program's central theme of resolving loan delinquencies. We anticipate that the program will start on June 1, 2011, and we are grateful to the Illinois Supreme Court and the Administrative Office of the Illinois Courts for their approval of our program."

The stated goals of the Peoria County program are threefold: to reduce the burden of expenses sustained by lenders, borrowers and taxpayers as a result of residential mortgage foreclosures; to aid the administration of justice by reducing the number of court cases; and to help keep families in homes, if possible, to prevent vacant and abandoned houses in Peoria County that negatively affect property values and destabilize the neighborhoods.

Under rules approved by the Supreme Court and established by Peoria County, the program would work this way:

1. Any complaint filed for residential foreclosure would be automatically scheduled for a mandatory pre-mediation conference within 60 days.
2. Along with the summons, defendant borrowers will be given a form explaining the mandatory mediation program. The form will state that the case will be evaluated by an outside mediator for possible loan modification or other resolution. It will also state that if modification is not deemed feasible or if the borrower does not want to save the home, then mediation may still be used to assist the parties in discussing a consent foreclosure in which the lender will waive any deficiency against the borrowers.
3. The form also will advise the borrower to bring certain financial information, and will contain a list of local counseling agencies available to assist borrowers in foreclosure. All financial information will be held in confidence by the mediator and not disclosed to any other party without the consent of the borrower.
4. An independent mediator will determine at the pre-mediation hearing whether the borrower meets initial criteria of having greater monthly income than expenses in order to qualify for a loan workout or modification. If the borrower does not meet the criteria or does not wish to keep the

**MORE**

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### **Add Two**

house, the mediator may seek to determine whether the borrower can deed the property to the lender or consent to a judgment waiving any deficiency judgment against the borrower.

5. If the borrower meets initial criteria for a loan modification or wishes to surrender the property in a consent foreclosure or other arrangement, the mediator will schedule a mediation conference within 30 days.

6. At the mediation conference, a representative of the lender must appear in person with full settlement authority and participate in good faith in the mediation process. Failure to attend or to participate in good faith will result in sanctions by the court, including possible dismissal of the action. If the borrower fails to appear without excuse, the mediation will be terminated and the matter will be referred back to the trial court.

7. Any agreement will be reduced to writing and signed by the parties and their counsel. The Circuit Court may retain jurisdiction of the case for a trial period. If the borrower fails to successfully modify the loan, or if no agreement is reached, the foreclosure will resume in the Circuit Court.

Chief Judge Brandt is compiling a list of qualified mediators, who are either retired judges or attorneys with a minimum of five years experience in the mortgage foreclosure field. Any mediator will be prohibited from practice in residential mortgage foreclosure proceedings in Peoria County in any capacity, including bidders at the Sheriff's sales.

Mediators will be paid \$150 for each file. To finance the program, the Supreme Court has authorized an increase in the filing fees paid by the plaintiff for all foreclosures in Peoria County from \$276 to \$301.

"We view the program as win/win for lenders and the community," said Chief Judge Brandt. "It is true that lenders are going to have to pay more in filing fees, but it should prove less expensive and less risky for them in the long run. We also hope the program will result in fewer abandoned homes over a shorter period of time with less downside for surrounding home values."

Chief Justice Kilbride sits on the Supreme Court from the Third Judicial District which includes Peoria, Tazewell, Stark, Marshall and Putnam counties in the 10th Judicial Circuit, Will County in the 12th Circuit and these additional counties: Bureau, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Kankakee, Knox, LaSalle, McDonough, Mercer, Rock Island, Warren, and Whiteside.

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