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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1941

02/25/2014 Authored by Dehn, R.; Clark; Isaacson; Kahn; Moran and others

The bill was read for the first time and referred to the Committee on Housing Finance and Policy

03/03/2014 Adoption of Report: Amended and re-referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to real property; establishing mortgage foreclosure mediation; amending
1.3 Minnesota Statutes 2012, section 581.03; Minnesota Statutes 2013 Supplement,
1.4 section 580.02; proposing coding for new law as Minnesota Statutes, chapter
1.5 584; repealing Minnesota Statutes 2012, sections 580.021; 580.022.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2013 Supplement, section 580.02, is amended to read:

1.8 **580.02 REQUISITES FOR FORECLOSURE.**

1.9 To entitle any party to make such foreclosure, it is requisite:

1.10 (1) that some default in a condition of such mortgage has occurred, by which the
1.11 power to sell has become operative;

1.12 (2) that no action or proceeding has been instituted at law to recover the debt then
1.13 remaining secured by such mortgage, or any part thereof, or, if the action or proceeding
1.14 has been instituted, that the same has been discontinued, or that an execution upon the
1.15 judgment rendered therein has been returned unsatisfied, in whole or in part;

1.16 (3) that the mortgage has been recorded and, if it has been assigned, that all
1.17 assignments thereof have been recorded; provided, that, if the mortgage is upon registered
1.18 land, it shall be sufficient if the mortgage and all assignments thereof have been duly
1.19 registered;

1.20 (4) ~~before the notice of pendency as required under section 580.032 is recorded,~~
1.21 ~~the party has complied with section 580.021; and~~ before or contemporaneous with the
1.22 notice of sale as required under section 580.03 is recorded, the party has recorded either
1.23 a fully executed opt-out notice or the affidavit of good faith in mediation as provided
1.24 in chapter 584, if applicable; and

2.1 (5) before the foreclosure sale, the party has complied with section 582.043, if
2.2 applicable.

2.3 Sec. 2. Minnesota Statutes 2012, section 581.03, is amended to read:

2.4 **581.03 JUDGMENT, TRANSCRIPT.**

2.5 Judgment shall be entered, under the direction of the court, adjudging the amount due,
2.6 with costs and disbursements, and the sale of the mortgaged premises, or some part thereof,
2.7 to satisfy such amount, and directing the sheriff to proceed to sell the same according to
2.8 the provisions of law relating to the sale of real estate on execution, and to make report to
2.9 the court. A certified transcript of the judgment shall be delivered to the sheriff, and shall
2.10 be the sheriff's authority for making the sale. Before judgment may be entered, the party
2.11 seeking judgment must provide the court with either a fully executed opt-out notice or the
2.12 affidavit of good faith in mediation as provided in chapter 584, if applicable.

2.13 Sec. 3. **[584.01] DEFINITIONS.**

2.14 Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

2.15 Subd. 2. **Authorized foreclosure prevention agency.** "Authorized foreclosure
2.16 prevention agency" means a government agency or a nonprofit agency funded, all or in
2.17 part, for foreclosure prevention services, by the Minnesota Housing Finance Agency
2.18 or the United States Department of Housing and Urban Development, or otherwise
2.19 approved by the United States Department of Housing and Urban Development to provide
2.20 foreclosure prevention counseling services.

2.21 Subd. 3. **Foreclosing entity.** "Foreclosing entity" means the person attempting to
2.22 foreclose a residential mortgage.

2.23 Subd. 4. **Homeowner.** "Homeowner" means the mortgagor who is an owner and
2.24 an occupant of the residential property subject to the residential mortgage sought to be
2.25 foreclosed by the foreclosing entity.

2.26 Subd. 5. **Loss mitigation.** "Loss mitigation" means a temporary or permanent loan
2.27 modification, a forbearance agreement, a repayment agreement, a principal reduction,
2.28 capitalizing arrears, or any other relief intended to prevent completion of the foreclosure.

2.29 Subd. 6. **Mediator.** "Mediator" means a mediator selected by the state Office of
2.30 Administrative Hearings, as provided in section 584.05.

2.31 Subd. 7. **Office of Administrative Hearings.** "Office of Administrative Hearings"
2.32 means the Office of Administrative Hearings as created by section 14.48.

2.33 Subd. 8. **Residential mortgage.** "Residential mortgage" means a mortgage on a
2.34 property consisting of one to four family dwelling units, one of which the owner occupies

3.1 as the owner's principal place of residency as of the date when the foreclosing entity sends
3.2 the notice required under section 584.03, subdivision 1.

3.3 Subd. 9. **Single point of contact.** "Single point of contact" means personnel
3.4 authorized by the foreclosing entity or subsequent lienholder to bind the foreclosing entity
3.5 or subsequent lienholder, and bind the owner of any loan note related to the mortgage
3.6 sought to be foreclosed, in mediation as to loss mitigation or other actions to resolve the
3.7 foreclosure. This single point of contact must be an easily accessible and reliable point
3.8 of contact for the homeowner throughout the mediation process who can perform the
3.9 duties imposed on servicers for continuity of contact in Code of Federal Regulations, title
3.10 12, section 1024.40, if applicable.

3.11 Subd. 10. **Subsequent lienholder.** "Subsequent lienholder" means any creditor
3.12 having a recorded legal or equitable lien upon the residential property subject to the
3.13 residential mortgage, or some part of it, that is junior to the lien held by the foreclosing
3.14 entity.

3.15 Sec. 4. **[584.02] APPLICABILITY.**

3.16 Subdivision 1. **Applicability.** This chapter applies to foreclosure of mortgages by
3.17 advertisement under chapter 580 and foreclosure of mortgages by actions under chapter
3.18 581 on a residential property. This chapter does not apply if the residential mortgage
3.19 sought to be foreclosed is a portfolio loan and the foreclosing entity, or any parent,
3.20 subsidiary, successor, or person similarly affiliated to the foreclosing entity, or the servicer
3.21 or agent of the foreclosing entity, has recorded less than 125 notices of pendency under
3.22 chapter 580 or lis pendens under chapter 581 in the year prior to the year of the notice of
3.23 default. For purposes of this section, "portfolio mortgage loan" means a mortgage and
3.24 related loan note that are owned by the originator of the mortgage loan and that have not
3.25 been previously sold, assigned, or otherwise transferred to a person other than a successor
3.26 entity to a financial institution that originated the mortgage and related loan note.

3.27 Subd. 2. **Additional authority.** The Office of Administrative Hearings may enact
3.28 regulations to carry out the provisions of chapter 584. Until December 31, 2015, the Office
3.29 of Administrative Hearings may establish procedures and take other actions necessary
3.30 to create the residential foreclosure mediation program provided in chapter 584 without
3.31 complying with the rulemaking requirements of chapter 14.

3.32 Sec. 5. **[584.03] MEDIATION NOTICES.**

3.33 Subdivision 1. **Notice of requested mediation.** A foreclosing entity desiring to
3.34 foreclose a residential mortgage shall notify the Office of Administrative Hearings of the

4.1 proposed foreclosure. This notice shall be sent by the foreclosing entity to the Office of
4.2 Administrative Hearings no earlier than 45 days after a homeowner's delinquency on the
4.3 mortgage. This notice to the Office of Administrative Hearings must include the single
4.4 point of contact, the address of the property sought to be foreclosed, and the name and
4.5 most recent telephone number of the homeowner.

4.6 Subd. 2. **Office of Administrative Hearings notice of mediation.** Within 14 days
4.7 of receiving the notice of default in subdivision 1, the Office of Administrative Hearings
4.8 shall select an authorized foreclosure prevention agency. The Office of Administrative
4.9 Hearings shall send a notice of the mediation to the homeowner, the foreclosing entity,
4.10 and the authorized foreclosure prevention agency. The notice shall include at least the
4.11 following information: the foreclosing entity's single point of contact, the address of the
4.12 property sought to be foreclosed, the name and most recent telephone number of the
4.13 homeowner, the name and contact information for the authorized foreclosure prevention
4.14 agency, the date and location of the mediation, and a copy of the homeowner opt-out form
4.15 provided for in section 584.04. The date of the mediation shall not be less than 21 days or
4.16 more than 60 days after the notice is sent by the Office of Administrative Hearings.

4.17 The notice must contain the following information related to the foreclosure
4.18 prevention agency:

4.19 [Name of authorized foreclosure agency] is a nonprofit agency and is an expert in
4.20 housing and foreclosure prevention counseling and assistance. They are experienced in
4.21 dealing with lenders and homeowners who are behind on mortgage payments and can help
4.22 you understand your options and work with you to address your delinquency. They are
4.23 approved by either the Minnesota Housing Finance Agency or the United States Department
4.24 of Housing and Urban Development. They are not connected with the foreclosing entity in
4.25 any way. They will accompany you to the mediation and can provide information and
4.26 assistance to reach an agreement with the foreclosing entity prior to the mediation.

4.27 Subd. 3. **Notice of mediation cancellation.** (a) If the authorized foreclosure
4.28 prevention agency notifies the Office of Administrative Hearings within 14 days of the
4.29 date of the scheduled mediation that it is unable to establish contact with a homeowner,
4.30 the Office of Administrative Hearings shall send the notice required in this section. The
4.31 notice shall be sent by regular and certified mail. The notice shall inform the homeowner
4.32 that the mediation will be canceled and the foreclosing entity will be permitted to proceed
4.33 with foreclosure if the homeowner does not contact the Office of Administrative Hearings
4.34 by a date that is at least two business days prior to the scheduled date of mediation.
4.35 The notice shall also inform the homeowner that the notice required in this section is
4.36 being sent to the homeowner because the authorized foreclosure prevention agency

5.1 has made four attempts to contact the homeowner and has been unable to confirm the
5.2 homeowner's appearance at the mediation. If the homeowner fails to contact the Office
5.3 of Administrative Hearings at least two business days prior to the scheduled date of
5.4 mediation, the Office of Administrative Hearings shall provide to the foreclosing entity an
5.5 opt-out notice under section 584.04, subdivision 2.

5.6 (b) The authorized foreclosure prevention agency selected by the Office of
5.7 Administrative Hearings to provide foreclosure counseling services to the homeowner
5.8 may inform the Office of Administrative Hearings that it is unable to establish contact
5.9 with the homeowner only if the authorized foreclosure prevention agency satisfies the
5.10 following requirements:

5.11 (1) the authorized foreclosure prevention agency has made four attempts to contact
5.12 the homeowner;

5.13 (2) at least one of the four attempts to contact the homeowner was by telephone;

5.14 (3) at least one of the attempts to contact the homeowner was in writing; and

5.15 (4) the authorized foreclosure prevention agency has stated in each written attempt

5.16 at contact that the purpose of mediation is to help the homeowner avoid foreclosure,

5.17 that the authorized foreclosure prevention agency has been selected by the Office of

5.18 Administrative Hearings to provide foreclosure counseling services to the homeowner if

5.19 the homeowner wants those services, and the mediation may be canceled if the homeowner

5.20 does not communicate to either the Office of Administrative Hearings or the authorized

5.21 foreclosure prevention agency an intent to participate in mediation.

5.22 **Subd. 4. Foreclosing entity's disclosure of loss mitigation information. (a)**

5.23 Within 14 days of the date that the Office of Administrative Hearings sent the notice of

5.24 mediation provided in subdivision 2, the foreclosing entity shall send to the homeowner

5.25 and the Office of Administrative Hearings a notice of loss mitigation information.

5.26 (b) The notice of loss mitigation information shall include the following:

5.27 (1) a statement of all information the foreclosing entity currently has that has been or
5.28 may be used in a loss mitigation decision;

5.29 (2) a list of information that the foreclosing entity reasonably needs from the
5.30 homeowner to make a loss mitigation decision;

5.31 (3) a statement that the homeowner may request the equation used to make any
5.32 calculation concerning a loss mitigation decision; and

5.33 (4) the identity and contact information for the single point of contact.

5.34 (c) The notice required by this subdivision must be in 14-point boldface type and the
5.35 title of the notice must be in 20-point boldface type. The notice must appear substantially
5.36 as follows:

6.1 **"NOTICE OF INFORMATION NEEDED FOR LOAN MODIFICATION**
6.2 **DECISION**

6.3 You are scheduled to appear for mortgage foreclosure mediation at [date, time,
6.4 and location of mediation]. We are required to send you this notice under the law of
6.5 the State of Minnesota.

6.6 Foreclosure mediation is a state-run program which provides eligible homeowners
6.7 with the opportunity to work with a neutral third party to modify their mortgage to avoid
6.8 foreclosure. An agent of [name of foreclosing entity] will be there to negotiate and modify
6.9 the terms of your loan. Mediations can result in a modification to your loan or other
6.10 solution to keep you in your house or allow a reasonable resolution to the foreclosure.

6.11 We have or may in the future use the following information that we currently
6.12 possess about you or your home:

6.13 [List of all such information].

6.14 [If homeowner information necessary] The mediation of the foreclosure on your
6.15 home is most likely to succeed in a loan modification to help you stay in the home if you
6.16 provide the following information about you and your home:

6.17 [List of information and what documents can provide this information].

6.18 You should send this information to us and to the Office of Administrative Hearings.
6.19 You can send information to the Office of Administrative Hearings at [to be provided by
6.20 the Office of Administrative Hearings]. You can send the requested information to us, or
6.21 you can ask us any questions regarding this notice or the mediation process, as follows:

6.22 [Identity and contact information for single point of contact]."

6.23 Subd. 5. **Notice to subsequent lienholders.** (a) Within 14 days of the date that the
6.24 Office of Administrative Hearings sent the notice of mediation provided in subdivision
6.25 2, the foreclosing entity shall send to subsequent lienholders a notice identifying the
6.26 homeowner, the address of the property sought to be foreclosed, and the mediation time,
6.27 date, and location. The notice shall also state that the mediator may void the lien on the
6.28 property held by the subsequent lienholder if the subsequent lienholder fails to participate
6.29 in the mediation in good faith.

6.30 (b) The foreclosing entity shall provide the Office of Administrative Hearings a list
6.31 of all subsequent lienholders sent the notice required under this subdivision.

6.32 Subd. 6. **Notice of mediator.** The Office of Administrative Hearings shall notify
6.33 the foreclosing entity, the homeowner, and the subsequent lienholders of the name and
6.34 contact information of the assigned mediator.

6.35 Sec. 6. **[584.04] OPT-OUT FORM.**

7.1 Subdivision 1. **Opt-out forms.** The Office of Administrative Hearings shall create
7.2 two forms, a homeowner opt-out notice and an inability to contact opt-out notice. Only
7.3 one form of opt-out notice is needed to cancel the mediation and satisfy any requirement
7.4 for obtaining or recording an opt-out notice.

7.5 Subd. 2. **Homeowner opt-out.** The Office of Administrative Hearings shall provide
7.6 a notice to the homeowner that the homeowner can complete to decline participation
7.7 in the mediation process. If the Office of Administrative Hearings receives a signed
7.8 opt-out notice from the homeowner, the Office of Administrative Hearings shall cancel the
7.9 mediation and promptly provide a copy of this completed opt-out form to the foreclosing
7.10 entity. The foreclosing entity shall promptly provide a copy of the completed opt-out form
7.11 to subsequent lienholders previously sent a notice of the mediation by the foreclosing entity.

7.12 Subd. 3. **Inability to contact opt-out.** If the Office of Administrative Hearings
7.13 sends the notice of possible mediation cancellation required under section 584.03,
7.14 subdivision 3, and the homeowner fails to contact the Office of Administrative Hearings
7.15 at least two business days prior to the scheduled date of mediation, the Office of
7.16 Administrative Hearings shall cancel the mediation, complete an opt-out form, and
7.17 promptly provide the form to the foreclosing entity. The foreclosing entity shall promptly
7.18 provide a copy of the completed opt-out form to subsequent lienholders previously sent a
7.19 notice of the mediation by the foreclosing entity.

7.20 Sec. 7. **[584.05] MEDIATORS.**

7.21 Subdivision 1. **Mediator eligibility.** The Office of Administrative Hearings shall
7.22 establish the qualifications necessary for a person to serve as a mediator under this
7.23 chapter. Mediators cannot have a conflict of interest that prevents the mediator from being
7.24 impartial with any party involved in the mediation program.

7.25 Subd. 2. **Duties of the mediator.** At the mediation, the mediator shall:

7.26 (1) listen to the homeowner, foreclosing entity, and subsequent lienholders, if any;

7.27 (2) attempt to mediate between the homeowner, foreclosing entity, and subsequent
7.28 lienholders, if any;

7.29 (3) advise the homeowner, foreclosing entity, and subsequent lienholders, if any, of
7.30 assistance programs available and known to the mediator;

7.31 (4) attempt to arrive at an agreement to fairly adjust, refinance, or pay the mortgage;
7.32 and

7.33 (5) advise, counsel, and assist the homeowner, foreclosing entity, and subsequent
7.34 lienholders, if any, in attempting to arrive at an agreement for the future conduct of the
7.35 financial relations among them.

8.1 Subd. 3. **Mediator liability and immunity.** (a) A mediator is immune from civil
 8.2 liability for actions within the scope of the position as mediator. A mediator does not have
 8.3 a duty to advise the homeowner, foreclosing entity, or subsequent lienholders, if any,
 8.4 about the law or to encourage or assist the homeowner, foreclosing entity, or subsequent
 8.5 lienholders, if any, in reserving or establishing legal rights. This subdivision is an addition
 8.6 to and not a limitation of immunity otherwise accorded to a mediator under any law.

8.7 (b) A mediator cannot be examined about a communication or document, including
 8.8 work notes, made or used in the course of or because of mediation under this chapter. This
 8.9 paragraph does not apply to the parties in the dispute in an application to a court by a
 8.10 party to have a mediated settlement agreement set aside or reformed. A communication
 8.11 or document otherwise not privileged does not become privileged because it is used in
 8.12 the cause of mediation. This paragraph is not intended to limit the privilege accorded to
 8.13 communication during mediation under any law.

8.14 Sec. 8. **[584.06] HOMEOWNER'S RIGHT TO REQUEST LOAN**
 8.15 **MODIFICATION FORMULA.**

8.16 At any time after the notice of requested mediation is sent by the foreclosing entity,
 8.17 the homeowner has the right to request from the foreclosing entity the formula and
 8.18 information used in deciding whether the homeowner is eligible for a loan modification or
 8.19 other program to help the homeowner resolve the foreclosure. The single point of contact
 8.20 must respond to the homeowner's request within seven days of the request.

8.21 Sec. 9. **[584.07] GOOD FAITH IN MEDIATION REQUIRED.**

8.22 Subdivision 1. **Obligation of good faith.** The homeowner and the foreclosing entity
 8.23 must engage in mediation in good faith.

8.24 Subd. 2. **Determination of good faith.** A foreclosing entity does not participate in
 8.25 good faith if the foreclosing entity:

8.26 (1) fails to attend or participate in mediation sessions without good cause;

8.27 (2) fails to provide information required under this section, section 584.03, or section
 8.28 584.08 without reasonable justification;

8.29 (3) fails to provide a single point of contact for the mediation process;

8.30 (4) fails to provide the formula used in deciding whether the homeowner is eligible
 8.31 for a loan modification or other program to help resolve the foreclosure, as required by
 8.32 section 584.06, if the formula is requested by the homeowner;

8.33 (5) fails to provide a reasonable explanation for not agreeing to loss mitigation;

9.1 (6) takes action or fails to take action that unreasonably obstructs or impedes
9.2 mediation or loss mitigation; or

9.3 (7) engages in any other conduct that evidences lack of good faith in providing loss
9.4 mitigation or reasonably assisting the homeowner in resolving the foreclosure.

9.5 A failure to agree to modify, reduce, restructure, refinance, or forgive debt is not, in
9.6 itself, evidence of lack of good faith by the foreclosing entity.

9.7 Subd. 3. **Certificate of good faith in mediation.** If the mediator determines that
9.8 the foreclosing entity participated in the mediation in good faith, the mediator shall
9.9 promptly provide to all parties a certificate attesting to this determination. If the mediator
9.10 determines that the foreclosing entity has not participated in the mediation in good faith,
9.11 the mediator shall provide to all parties within one week of the end of the mediation a
9.12 report attesting to this determination and the reason for the determination.

9.13 Subd. 4. **Lack of good faith.** If the homeowner does not execute an opt-out form
9.14 and the mediator does not provide the foreclosing entity a certificate of good faith in
9.15 mediation following a mediation, all actions taken and documents recorded as part of the
9.16 foreclosure process are void, and the foreclosing entity shall be prohibited from taking any
9.17 action to initiate a new foreclosure for one year from the date of mediation.

9.18 Sec. 10. **[584.08] MEDIATION PROCESS.**

9.19 Subdivision 1. **Appearances.** There will be one mediation session unless the
9.20 mediator determines that a subsequent session is needed and may be helpful to a successful
9.21 mediation. The Office of Administrative Hearings may allow the parties to appear through
9.22 remote communication. The Office of Administrative Hearings may reschedule the time
9.23 or location of the mediation if reasonably necessary for the participation of a party. A
9.24 subsequent or rescheduled session may take place outside of the time period provided
9.25 in section 584.03, subdivision 2.

9.26 Subd. 2. **Documents required at mediation.** The foreclosing entity shall bring to
9.27 the mediation the following documents:

9.28 (1) a valid copy of the mortgage and note, and each assignment or endorsement of
9.29 the mortgage and note;

9.30 (2) an accurate statement containing the balance of the loan within seven days
9.31 of the date of mediation;

9.32 (3) an accurate statement of any arrearage and an itemized statement of the arrearages;

9.33 (4) the payment history and schedule for the preceding 12 months, or since
9.34 default, whichever is longer, including a breakdown of all fees and charges claimed and
9.35 outstanding; and

10.1 (5) any appraisal or valuation estimate relied upon by the foreclosing entity in
10.2 making a loan mitigation decision.

10.3 Subd. 3. **Mediation agreement.** The foreclosing entity, homeowner, and, if any,
10.4 subsequent lienholders who are parties to an agreement reached in mediation are bound
10.5 by the terms of the agreement, may enforce the mediation agreement as a legal contract,
10.6 and may use the mediation agreement as a defense against an action contrary to the
10.7 mediation agreement.

10.8 Sec. 11. **[584.09] SUBSEQUENT LIENHOLDERS GOOD FAITH IN**
10.9 **MEDIATION REQUIRED.**

10.10 Subdivision 1. **Requirement of good faith.** A subsequent lienholder must
10.11 participate in mediation in good faith. A subsequent lienholder does not participate in
10.12 good faith if the subsequent lienholder:

10.13 (1) fails to attend and participate in mediation sessions without good cause;

10.14 (2) fails to designate a single point of contact with authority to make binding
10.15 commitments to participate in the mediation;

10.16 (3) fails to provide a reasonable explanation for not agreeing to a loss mitigation;

10.17 (4) takes action or fails to take action that unreasonably obstructs or impedes
10.18 mediation or the determination of a loss mitigation; or

10.19 (5) engages in any other conduct that evidences a lack of good faith in providing a
10.20 loss mitigation or reasonably assisting the homeowner in resolving the foreclosure.

10.21 A failure to agree to modify, reduce, restructure, refinance, or forgive debt is not, in
10.22 itself, evidence of lack of good faith by the subsequent lienholder.

10.23 Subd. 2. **Failure to participate in good faith.** If the mediator determines that a
10.24 subsequent lienholder has not participated in good faith in the mediation, the mediator
10.25 shall provide to all parties within one week of the end of the mediation a certificate
10.26 attesting to this determination. The homeowner may record this certificate, which shall
10.27 have the effect of making void the lien of the subsequent lienholder determined to have
10.28 not participated in good faith.

10.29 Sec. 12. **[584.10] AUTHORIZED FORECLOSURE PREVENTION AGENCIES.**

10.30 The Office of Administrative Hearings shall establish and administer an evaluation
10.31 program to determine which authorized foreclosure prevention agencies are providing
10.32 the best advocacy on behalf of the homeowner throughout the mediation process under
10.33 this chapter. When assigning authorized foreclosure prevention agencies to mediations,
10.34 the Office of Administrative Hearings shall give priority to those authorized foreclosure

11.1 prevention agencies that have been proven to be better advocates for the homeowner
11.2 throughout the mediation process under this chapter.

11.3 Sec. 13. **[584.11] MORTGAGE FORECLOSURE MEDIATION PROGRAM**
11.4 **DATA.**

11.5 Subdivision 1. Requirement to maintain data. The Office of Administrative
11.6 Hearings shall create an annual report on the success rate of the foreclosure mediation
11.7 program.

11.8 Subd. 2. Mediator reports. The reports of mediators under section 584.07,
11.9 subdivision 3, are classified as private data on individuals under section 13.02, subdivision
11.10 12, or nonpublic data under section 13.02, subdivision 9.

11.11 Subd. 3. Confidentiality of data created by the Office of Administrative Hearings
11.12 in foreclosure mediation. (a) All data regarding the finances of homeowners, foreclosing
11.13 entities, and subsequent lienholders created, collected, and maintained by the mediators or
11.14 the Office of Administrative Hearings are classified as private data on individuals under
11.15 section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9.

11.16 (b) All data and reports created by the Office of Administrative Hearings in
11.17 complying with section 584.11, subdivision 1, shall be classified as public data not on
11.18 individuals under section 13.02, subdivision 14.

11.19 Sec. 14. **APPROPRIATION; OFFICE OF ADMINISTRATIVE HEARINGS.**

11.20 \$..... is appropriated in fiscal year 2015 from the general fund to the Office of
11.21 Administrative Hearings for the operation of the foreclosure mediation program under
11.22 Minnesota Statutes, chapter 584.

11.23 Sec. 15. **REPEALER.**

11.24 Minnesota Statutes 2012, sections 580.021; and 580.022, are repealed.

580.021 FORECLOSURE PREVENTION COUNSELING.

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages by advertisement under this chapter and foreclosure of mortgages by action under chapter 581 on property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residency when the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded.

Subd. 2. **Requirement to provide notice of opportunity for counseling.** Before the notice of pendency under section 580.032, subdivision 3, or the lis pendens for a foreclosure under chapter 581 is recorded, a party foreclosing a mortgage must provide to the mortgagor information contained in a form prescribed in section 580.022, subdivision 1, that:

(1) foreclosure prevention counseling services provided by an authorized foreclosure prevention counseling agency are available; and

(2) the party will transmit the homeowner's name, address, and telephone number to an approved foreclosure prevention agency.

The notices required by this subdivision may be provided concurrently with a written notice of default.

For the purposes of this section, an "authorized foreclosure prevention counseling agency" or "counseling agency" is a government agency or a nonprofit agency funded, all or in part, for foreclosure prevention services, by the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development, or otherwise approved by the United States Department of Housing and Urban Development to provide foreclosure prevention counseling services.

Subd. 3. **Notification to authorized counseling agency.** The party entitled to foreclose shall, within one week of sending the notice prescribed in section 580.022, provide to the appropriate authorized foreclosure prevention agency the mortgagor's name, address, and most recent known telephone number.

Subd. 4. **Notice of provision of counseling; request for contact information.** (a) An authorized foreclosure prevention agency that contacts or is contacted by a mortgagor or the mortgagor's authorized representative and agrees to provide foreclosure prevention assistance services to the mortgagor or representative must provide the form prescribed in section 580.022 to the mortgagee. The form serves as notice to the mortgagee that the mortgagor is receiving foreclosure prevention counseling assistance.

(b) The mortgagee must return the form to the authorized foreclosure prevention agency within 15 days of receipt of the form with the name and telephone number of the mortgagee's agent. The agent must be a person authorized by the mortgagee to:

(1) discuss with the authorized foreclosure prevention agency or the mortgagor the terms of the mortgage; and

(2) negotiate any resolution to the mortgagor's default.

(c) Nothing in this subdivision requires a mortgagee to reach a resolution relating to the mortgagor's default.

580.022 FORMS.

Subdivision 1. **Counseling form.** The notice required under section 580.021, subdivision 2, clause (2), must be printed on colored paper that is other than the color of any other document provided with it and must appear substantially as follows:

"PREFORECLOSURE NOTICE

Foreclosure Prevention Counseling

Why You Are Getting This Notice

We do not want you to lose your home and your equity. Government-approved nonprofit agencies are available to, if possible, help you prevent foreclosure.

We have given your contact information to an authorized foreclosure prevention counseling agency to contact you to help you prevent foreclosure.

Who Are These Foreclosure Prevention Counseling Agencies

They are nonprofit agencies who are experts in housing and foreclosure prevention counseling and assistance. They are experienced in dealing with lenders and homeowners who are behind on mortgage payments and can help you understand your options and work with you to address your delinquency. They are approved by either the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development. They are not connected with us in any way.

APPENDIX

Repealed Minnesota Statutes: H1941-1

Which Agency Will Contact You

[insert name, address, and telephone number of agency]

You can also contact them directly."

Subd. 2. **Notice of Counseling and Request for Contact Information form.** The notice required in section 580.021, subdivision 4, must be substantially in the following form:

"PREFORECLOSURE NOTICE

NOTICE OF PROVISION OF FORECLOSURE PREVENTION COUNSELING AND REQUEST FOR MORTGAGEE CONTACT INFORMATION

[Insert agency name] has been contacted by your customer regarding foreclosure prevention counseling in response to the current foreclosure proceedings involving the customer's real property. Please provide the following contact information pursuant to Minnesota Statutes, section 580.021, subdivision 4, by completing and returning this form via fax [insert fax number] or via e-mail at [insert e-mail address].

To be completed by Counseling Agency

Consumer Name:

CONSUMER CONTACT INFORMATION:

Address:

City, State, Zip Code:

Daytime Phone:

Nighttime Phone:

PROPERTY AT RISK FOR FORECLOSURE (if differs from above):

Address:

City, State, Zip Code:

COUNSELING AGENCY CONTACT:

Name:

Agency:

Phone:

Fax:

E-mail:

To be completed by Lender

Contact Name:

Address:

City, State, Zip Code:

Phone:

Fax:

E-mail: "