

A FEDERAL AND STATE LIFELINE IS ESSENTIAL FOR DEBT-STRAPPED HOMEOWNERS

BY: LINDA STAMATO

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Mediation, farmer-lender style, can make the housing mortgage lifeline work. What New Jersey needs for homeowners facing foreclosure in the subprime loan mess -- some 53,600 were filed in 2007 and more are anticipated in 2008 -- is a law that requires lenders to seek mediation for their troubled loans before foreclosure, and a forum in which loans can be modified. There at least should be a serious effort to secure the voluntary cooperation of creditors. Lawsuits against mortgage lenders, investment banks and credit rating agencies may well be part of the state's plan. This plan may include litigation against those who inflated appraisals or failed to prevent the questionable packaging of loans into securities. Important as they are, these actions do not provide immediate relief to homeowners,

The latest in a series of efforts at the federal level, Project Lifeline, would give homeowners more than three months behind on their mortgage payments and a one-month grace period to work out plans to avoid foreclosure, thus putting a stop to foreclosure proceedings so that homeowners can attempt to negotiate new terms. This framework, though, needs further elaboration.

One answer can be found when we examine the farm crisis that swept across the country in the 1980s, a crisis that led a successful use of mediation of troubled farm loans. Farmer-creditor mediation brought debt-burdened farmers and their creditors together to resolve loan problems before they reached the point at which the only option was foreclosure or legal action.

This was a monumental effort generated by a crisis of significant proportions: Farmers, nationally, owed \$200 billion, and the debt was concentrated among farmers with the least ability to pay. These are stark figures, to be sure, dramatizing the stakes for debtors and creditors alike.

Pioneering states, first in voluntary efforts and then through mandatory programs, instituted mediation. In Iowa, for example, a state law prohibiting lenders from foreclosing on farms without first seeking mediation created the Iowa Mediation Service, which operated on the principle that even if farmers could not pay the full amount they owed, they often could pay something. In many cases, banks were happy to get that smaller amount instead of taking ownership of depreciating farmland. In the end, 16 states, including Minnesota and Texas, provided mediation services.

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The U.S. Department of Agriculture assisted the states' mediation efforts, moreover, by providing matching grants to states for farmer-lender mediation programs. Under the terms of the Agricultural Credit Act of 1987, federal lenders were required to participate in mediation of farm-credit disputes, thus providing additional support and encouragement to the dozen states where, by that time, the practice was well established. More states followed.

These programs were evaluated in terms of costs incurred, loans restructured and paid off, satisfaction rates, and so forth. They were deemed to be enormously successful—and not only on tangible grounds. Farm debts were restructured and farmers were able to remain on their farms and to borrow again to keep their farms in operation and help their rural communities. The toll on family life that credit disputes of this scope generate was reduced (e.g. domestic violence rates receded, divorce rates fell). Taxpayers and public and private creditors benefited, too.

At the federal level, these programs were seen as so successful that the USDA recommended to Congress that it consider extending the mediation process to include all federal creditors, including the Internal Revenue Service and the U.S. attorney's offices.

As a result of this experience, in September 2007, the attorney general of Iowa hired that state's mediation service to provide similar services for homeowners facing foreclosure on their homes. (Iowa is seventh from the top in states with subprime mortgage foreclosure, at 9.4 percent.) The Iowa Mediation Service is currently working on a significant number of mortgage cases and is reported to being close to reaching settlement agreements on many of them.

Other states are beginning to look in this direction. Meanwhile, homeowners in New Jersey face foreclosure without such pressure and without any forum. It doesn't need to be this way. The state has a significant cadre of volunteer mediators who perform their services in every judicial vicinage in the state and it has an office within the Public Advocate and a State Board of Mediation for labor disputes in the private sector that could gear up to offer mediation in homeowner-lender disputes. There are mediators in private practice to draw from, as well. What is needed is an affirmative stance by the attorney general to encourage (or re quire) the use of mediation prior to foreclosure and to provide the means to organize a systematic approach to provide that service statewide.

Farmer-lender mediation programs provided solutions for the crisis in rural America only a few decades ago. The contemporary crisis in home mortgage foreclosures could benefit from a similar approach. In other states, the effort is showing considerable promise already. New Jersey should step up and make a responsible effort to encourage, if not mandate, mediation. It just may help families save their homes, preserve

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neighborhoods and communities, and help restore faith in the nation's credit lending system.

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