

## ***New York State's Mandatory Settlement Conferences***

### **Who is entitled to a mandatory settlement conference?**

Any borrower living in a home with 1 to 4 units or a condominium unit who has a "home loan" is entitled to a mandatory settlement conference. A "home loan" is defined as a loan, including a line of credit, in which the borrower is a natural person, the debt was incurred primarily for personal family, or household purposes, and the loan is secured by a mortgage or deed of trust on real estate. The home must be used or intended to be used or occupied as the primary residence of the borrower, or will be occupied by the borrower as their principal dwelling.

A borrower in default on a reverse mortgage (a special mortgage for homeowners 65 and older where they receive a loan without monthly payments) is not entitled to a mandatory settlement conference. Investors in a property are also not entitled to a mandatory settlement conference unless they live in the home. However, these people may *ask* for a settlement conference from the court, based on court rules.

### **What is the purpose of the conference?**

The purpose of the conference is for the lender and borrower to sit down together to see if they can reach an agreement to help the borrower from losing their home.

### **Who will be there?**

There will be a representative from the court, a lawyer for your lender, and you. It is very unlikely that the lender themselves will be in the room. The conferences are handled differently across the state. In most courts, judges do not attend the conferences. You will more likely have a representative from the court, such as a court clerk or someone called a referee overseeing the settlement conference.

### **Will the conference be in a courtroom before a judge?**

Probably not. The conferences are handled differently throughout the state, but they are not formal proceedings in a large courtroom before a judge. Most likely, you will be in a room or a section of a room and sitting at a table with the court representative and your lender's lawyer.

### **What should I do to prepare?**

The most important thing is to sit down and do a realistic household budget and figure out how much you can afford for a monthly mortgage payment. Be sure to include the monthly cost of your property and school taxes, and homeowners insurance. If you cannot afford a monthly mortgage payment at all, or if your income has dropped a lot, maybe you can't afford a mortgage at all. If that is the case — the home is unaffordable

even if the loan were modified — you will have to consider alternative options, such as selling your home. Consider these options in your mind and be realistic.

Gather verification of your income, including your last two paystubs, award letters, and copies of your bank statements that show direct deposit payments from work, pensions, social security and other income sources. Also gather your tax and insurance bills.

### **What if I can't make the scheduled date for the conference?**

Courts generally do not like to reschedule conferences of this sort, so you should try to make it. If you really can't make it, call the court and tell them the reason that you cannot attend the conference, let them know that you *want* to attend, and ask them if they can reschedule the conference.

Information for the court should be listed on the notice you receive. If it is not, call your local supreme court clerk's office.

### **What should I bring with me?**

Bring the verification of income you have gathered, as well as your tax and insurance documents. If you cannot make copies, just bring the original documents with you. You should also bring a copy of your deed if you have it.

### **Do I need a lawyer?**

No, you do not need a lawyer to attend the settlement conference. It is always a good idea to have a lawyer, but many borrowers in foreclosure cannot afford an attorney and free legal resources are scarce in many areas. The courts are used to homeowners appearing at conferences on their own.

### **How should I dress?**

You are going to court, so you should dress nicely. You do not need to wear a suit or dress, but what you wear should be respectful of the court.

v1.0, 09-12