



NEW YORKERS FOR RESPONSIBLE LENDING

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New Yorkers for Responsible Lending Announces Release of “Divergent Paths” *Report finds New York State’s Foreclosure Settlement Conference Process Varies Wildly from County to County*

April 7, 2016, NEW YORK—Today, **New Yorkers for Responsible Lending (NYRL)** released a report revealing wide variations in the implementation of foreclosure settlement conference rules. The wide variations in implementation have the potential to leave tens of thousands of New Yorkers at heightened risk of losing their homes. This report analyzes the practices and procedures of New York State’s pioneering court-mediated settlement conference program – a program designed to help New Yorkers save their homes from foreclosure – and reveals that a lack of strong statewide guidance has resulted in procedures that vary significantly based on where homeowners live.

“Divergent Paths: The need for more uniform standards and practices in New York State’s residential foreclosure conference process” is an analysis of a statewide survey NYRL conducted to assess these practices and procedures in New York’s court-mediated foreclosure settlement conferences. Administered by the state courts, these conferences are designed to promote negotiation of affordable home-saving solutions. However, NYRL found that the dramatic variation in how conferences are held means that whether a person’s home can be saved can depend as much on geographic location as on the merits of their case.

“New York reacted swiftly to the foreclosure crisis by implementing the foreclosure settlement conference process, a means by which lenders and homeowners could preserve homeownership and recuperate non-performing mortgages. Unfortunately, as *Divergent Paths* illustrates, homeowners across the state are not given the same opportunity to take advantage of what was intended to be a meaningful process,” stated **Keisha Williams, Assistant Supervising Attorney of Western New York Law Center** and the Co-chair of the NYRL mortgage subcommittee.

“This report identifies specifically how settlement conference practices vary from county to county. The differences dramatically impact whether homeowners have access to a productive settlement conference process, which ultimately determines whether a homeowner can save their home from foreclosure. The settlement conference law should be implemented uniformly across the state, and the success of homeowners attempting to navigate New York’s complex judicial foreclosure environment should not be determined by zip code,” said **Jacob Inwald, Director of Foreclosure Prevention at Legal Services NYC** and one of the primary authors of the report.

“New York has powerful laws to help homeowners avoid foreclosure. Divergent Paths will help the courts identify areas for improvement to ensure that all homeowners have access to the settlement conference process and that the conferences themselves are meaningful. There are simple changes that courts can implement to improve outcomes, such as educating homeowners about the conference process, keeping records of all conferences, and requiring parties to appear with knowledge of the case and the ability to negotiate,” said **Jennifer Sinton, Director of the Foreclosure Prevention Project of Brooklyn Legal Services**, and Co-chair of the NYRL mortgage subcommittee.

Some of the key recommendations from the report include:

- Implement and enforce the settlement conference process more uniformly and consistently across the state. For example:
 - Create uniform procedures clarifying the courts’ authority when parties fail to negotiate in good faith
 - Create uniform mechanisms for enforcement when attorneys appear without settlement authority or necessary knowledge to engage in negotiations
- Adopt common sense practices to ensure accountability and efficiency in order to expedite settlement conferences and compliance with the law’s requirements. These practices include:
 - Adoption of uniform order forms
 - Improvements in record keeping
 - Appointment of a dedicated mediator for the duration of each case
 - Separate calendars for first-time settlement conferences

As of October 2015, almost 90,000 homeowners across New York State were still in foreclosure. “New York State is still in the midst of the foreclosure crisis and the settlement conference process is a key component to successfully navigating this crisis. We thank the Office of Court Administration (OCA) for playing a leadership role in ensuring homeownership is preserved and communities remain stable in New York. NYRL looks forward to supporting OCA in this ongoing process,” says **Rebecca Caico, Senior Attorney with Empire Justice Center** and one of the primary authors of the report.

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NEW YORKERS FOR RESPONSIBLE LENDING (NYRL) is a statewide coalition that promotes access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. NYRL is dedicated to fighting predatory practices in the financial services industry, through policy reform, education and outreach, research and direct services. NYRL members include community financial institutions, community-based organizations, affordable housing and foreclosure prevention groups, advocates for seniors, legal service organizations, and community reinvestment, fair lending, and consumer advocacy groups. Established in 2000, NYRL has more than 160 member organizations throughout New York State.