

City of Cranston
Foreclosure Conciliation & Recording Requirements
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Ordinance Implementation Requirements

- It is the responsibility of the lender/mortgagee to provide Notice of Intent to Foreclose simultaneously to the homeowner/mortgagor and to the City of Cranston Recorder of Deeds. Such notice must include, street address, and the plat and lot of the subject property. This is to be included as part of the foreclosure recording. There will be a \$12.00 fee for the filing of this notice
- It is the responsibility of the lender/mortgagee to engage a Conciliation Conference Coordinator at a HUD-Approved Housing Counseling Agency located in Rhode Island.
- Counseling and Conciliation Coordinator services must be provided by a HUD-Approved Housing Counseling Agency based in Rhode Island.
- A list of participating Rhode Island-based HUD-Approved Housing Counseling Agencies will be made available to lenders/mortgagees and mortgagors.
- Any fee charged by HUD-Approved Housing Counseling Agencies may not be passed on to the mortgagor.
- The Conciliation Conference Coordinator will schedule a Conciliation Conference no later than 21 days following the mailing of the Notice to Foreclose.
- It is the responsibility of the lender/ mortgagee to file proof of compliance with the Ordinance, in the form of an approved certification (see below) or other proof deemed acceptable to the Recorder of Deeds, with the foreclosure deed. The certificate or other proof must be included as part of the foreclosure recording. The fee for recording the certificate will be \$45.00.
- The Conciliation Conference Coordinator must make a determination regarding Good Faith no later than 60 days following the mailing of the Notice to Foreclose.

Recorder of Deeds

Maria Medeiros Wall, JD, Recorder of Deeds, should be contacted by Housing Counseling Agencies and lenders/mortgagees with questions about ordinance implementation.

Conciliation Coordinator and the HUD-Approved Counselor

The Conciliation Coordinator is an impartial function, with the responsibility to bring the parties together to explore foreclosure work-out or modification. On the other hand, *the HUD-Approved Counselor* is an

advocate for the homeowner, working with him/her to explore options for keeping the home with the lender. These two positions may be located in the same agency, but will be staffed by different people and different responsibilities. It is reasonable to expect that a fee may be charged by either or both of these persons for their services. Such fees should be borne by the lender.

Conciliation Coordinator

Conciliation Coordination services must be provided by a Rhode Island-based HUD-Approved Counseling Agency. A list of such agencies will be kept by the Recorder of Deeds and provided to mortgagors and mortgagees upon request.

The expertise level of this position should be at least equal to a housing counselor. The Conciliation Coordinator should have an extensive lending and/or mortgage servicing background. The Conciliation Coordinator shall make the final decision as to whether or not a “good faith effort” has not been made by the lender. Housing Counseling Agencies should adopt standard guidelines for the determination of Good Faith. For guidance in the development of such standards, the City refers Housing Counseling Agencies to the suggested Good Faith Certificate in this document.

Participating agency:

Rhode Island Housing: ConciliationCoordinator@rhodeislandhousing.org

401 450-1331

401 450-1141 (fax)

HUD-Approved Counselor

Counseling services must be provided by a Rhode Island-based HUD-Approved Counseling Agency. The Recorder of Deeds will maintain a list of participating agencies.

Participating agency:

Rhode Island Housing: ConciliationCoordinator@rhodeislandhousing.org

401 450-1331

401 450-1141 (fax)

Proof of Compliance

The City of Cranston Recorder of Deeds has issued standard certifications that will be accepted as proof of compliance with the Ordinance. *Any foreclosure deed presented for recording must be categorized by one of the following classifications.*

1. Affidavits of Exemption for the following reasons:
 - Properties are not owner occupied or are non-residential.
 - The lender/mortgagee is headquartered within the state of Rhode Island, services its own mortgages, and provides homeowners with a forbearance relief program consistent with the loss mitigation requirements of the FHA .

Language attesting to exemption for the above reasons may be included with the Foreclosure Deed and will be accepted by the Recorder of Deeds in lieu of a Certificate of Compliance.

2. Based upon documentation to be provided by the Lender/Mortgagee to the Conciliation Coordinator, a Certificate of Compliance will be issued by the Conciliation Coordinator attesting that either:

- The homeowner did not respond to or cooperate with the Conciliation Coordinator's request to appear for the conciliation conference or meet the requirements of the ordinance, or
- The lender/servicer made a good faith effort to reach an agreement with the homeowner to re-negotiate the terms of the loan (Sections 8.49

Forms Available for Compliance

Documents have been prepared for your use for submission as proof of compliance with the Ordinance: Affidavit of Exemption (commercial or not owner occupied), Affidavit of Exemption (RI bank with program), Certificate of Compliance (Good Faith Effort).

[These templates can be found at the end of this section.](#)

Applying the Ordinance

The following narrative provides an explanation of the process the City will follow for ordinance implementation, expectations of lenders/mortgagees, and recommended procedures for participating HUD-Approved Housing Counseling Agencies.

1. The Notice of Intent to Foreclose will be forwarded by the lender/mortgagee to the mortgagor, City of Cranston Recorder of Deeds, and the Conciliation Coordinator at the participating Rhode Island HUD-Approved Counseling Agency of their choice.
2. Included with the Notice of Intent to Foreclose, the lender/mortgagee will provide the mortgagor a list of participating Rhode Island HUD-approved counseling agencies and notifies the mortgagor in writing of the Conciliation Coordinator that will be contacting the mortgagor to schedule a conference.
3. The Conciliation Coordinator will ensure that the mortgagor is referred to a HUD-Approved Counselor who is assigned to that mortgagor's case. When Conciliation Coordination and Counseling services are provided by the same HUD-Approved Counseling Agency, the Agency should take appropriate measures to ensure independent decision-making by the Coordinator and Counselor, given their different roles.
4. The HUD-Approved Counselor will request from the mortgagor financial information necessary to develop a Pre-Conciliation Action Plan. The Counselor will meet with the mortgagor and develop a written Action Plan prior to the conciliation conference.

Failure to provide information to the Counselor, failure to meet and/or confer with the Counselor, and/or failure to work in good faith on the development of a Pre-Conciliation Action Plan will constitute grounds for the Conciliation Coordinator to certify the Good Faith Effort of a lender/mortgagee in the absence of an Action Plan.

5. The Conciliation Coordinator will schedule a Conciliation Conference between the mortgagor, HUD-Approved Counselor and lender/mortgagee no later than 21 days after the Notice of Intent is filed. The housing counselor should, at a minimum, offer the mortgagor the opportunity to conduct the Conciliation Conference in person rather than via telephone. The Conciliation Coordinator will act as a liaison and review information presented by both parties.

In the event of the failure of the lender/mortgagee to respond to two attempts by the Conciliation Coordinator to schedule a Conciliation Conference, or in any other way to fail to cooperate with the Conciliation process, the requirements imposed on the lender/mortgagee will be deemed satisfied and a Good Faith Effort certification will be issued by the Coordinator to the lender/mortgagee.

6. In the event a lender/mortgagee rejects a proposed Action Plan and the Conciliation Conference does not result in a mutually acceptable Action Plan, the Conciliation Coordinator can require lenders/mortgagees to provide a written explanation for the denial and, if feasible, an alternative approach.
7. If a resolution is not reached, the lender/mortgagee may request a "Good Faith Effort" certification at any time after the conclusion of the Conciliation process. That request should be

made in writing to the Conciliation Coordinator and should include a description of how the servicer met the “Good Faith Effort” requirement.

The Conciliation Coordinator will review that documentation and the Action Plan provided by the housing counselor and determines if a “Good Faith Effort” to reach an agreement was made by the lender/mortgagee.

The complete conciliation process, including the determination of good faith, must be completed within **45** days of the Notice of Intent filing.

8. If the Conciliation Coordinator determines a Good Faith Effort was exhibited, they will issue that certification to the lender/mortgagee who shall be responsible for filing that certification with the foreclosure deed. Certification must be filed by the lender/mortgagee no later than **45** days from the Notice of Intent filing.
9. The Recorder of Deeds will record a Foreclosure Deed upon receipt of a Deed and supporting documents (Notice of Intent to Foreclose and Certificate or other proof showing Compliance) meeting compliance requirements as delineated above (see, Proof of Compliance).

