



# STATE OF MINNESOTA

## Office of Governor Tim Pawlenty

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

May 22, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives  
463 State Office Building  
St. Paul, Minnesota 55155

Dear Speaker Kelliher:

I have vetoed and am returning House File 354, Chapter 154, the Homestead Mediation Lender Act of 2009.

I appreciate the progress my Administration and the Legislature have made in recent years to provide assistance to homeowners facing foreclosure. We have worked on a bipartisan basis to address this very important need and have enacted nation-leading programs. I was hopeful we could make more progress this year by working together to pass a mediation bill. While I am supportive of a mediation option for certain foreclosure cases, this bill does not incorporate my key recommendations. More specifically, my concerns and the reasons for my veto of this bill are presented below:

- The scope of homeowners qualifying for mediation was narrowed from the bill's original version. However, the remaining language is problematic. Having the mediator decide who is eligible for mediation is nonsensical. If the mediator is deciding which case is appropriate for mediation, the mediation process would have already begun. To the extent the appropriateness of mediation is decided by debt-to-income ratios, a mortgage counselor should make that determination prior to a mediator becoming involved. Every homeowner is required to meet with a qualified counselor before mediation. The counselor should determine eligibility for mediation based on objective criteria prior to the matter being referred to a mediator.
- The bill requires mediators be appointed by the Attorney General's office. The Attorney General's office understandably functions as an advocate. It is not the proper entity to select neutral dispute resolution personnel or procedures.

Speaker Kelliher/HF 354

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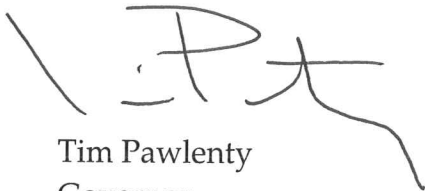
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Mediators should be appointed by the Office of Administrative Hearings with the use of qualified volunteers encouraged. That office is judicial in nature and can serve as a neutral decision maker.

- The program is funded by increasing the foreclosure fee by \$125 dollars per foreclosure. Lenders and borrowers involved in foreclosures who do not receive mediation should not pay for mediation services. The program should be able to support itself, and any fee should be applied within the mediation transaction.
- The bill requires the initial mediation meeting to be done by telephone or video conferencing. Subsequent meeting locations and facilitation are at the discretion of the mediator. All meetings should be available electronically unless parties agree otherwise. This will make the process more efficient and less costly.

Although this bill may be well intentioned, it falls short by failing to address the concerns I expressed earlier in session. For these reasons, I have vetoed Chapter 154.

Sincerely,

A handwritten signature in black ink, appearing to read 'TP', with a long horizontal stroke extending to the right.

Tim Pawlenty  
Governor

cc: Senator James Metzen, President of the Senate  
Senator Lawrence J. Pogemiller, Majority Leader  
Senator David Senjem, Minority Leader  
Senator Linda Scheid  
Representative Marty Seifert, Minority Leader  
Representative Debra Hilstrom  
Mr. Peter S. Wattson, Secretary of the Senate (Legislative)  
Mr. Al Mathiowetz, Chief Clerk of the House of Representatives  
Mr. Mark Ritchie, Secretary of State