

MAINE STATE LEGISLATURE

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Memorandum

To: Senator Peter Bowman, Chair
Representative Sharon Treat, Chair
Joint Standing Committee on Insurance and Financial Services

From: William N. Lund, Superintendent
Bureau of Consumer Credit Protection

Re: Quarterly Foreclosure Report – PL 2009, Ch. 402

Date: January 6, 2010

PL 2009 Chapter 402 (LD 1418), “An Act to Preserve Home Ownership by Preventing Unnecessary Foreclosures,” requires the Bureau of Consumer Credit Protection to report to the Insurance and Financial Services Committee on a quarterly basis regarding implementation and results of the Bureau’s foreclosure prevention program. The first quarterly report was submitted to the Committee in September, 2009. This is the report for the final quarter in calendar year 2009.

The most significant recent development is that the Bureau of Consumer Credit Protection has taken steps to increase the number of qualified foreclosure prevention counselors who are available to assist troubled Maine homeowners. In addition to the agency’s original contract with Maine State Housing Authority (MSHA), we have now contracted with five non-profit agencies -- York County Community Action Program; Coastal Enterprises, Inc.; Community Concepts, Penquis Community Action; and Pine Tree Legal Assistance -- to provide counselors to whom the Bureau can refer homeowners, with confidence that those consumers will receive quality services as they gather financial information and negotiate with mortgage lenders, servicers and foreclosure attorneys to work toward loan modifications, loan restructuring or other remedies.

We continue to refer cases to counselors available under our contract with MSHA, and starting this month we will be providing a desk and phone to a MSHA-funded counselor who will operate out of our offices in Gardiner several days each week. Further, the Bureau hopes to add at least one more agency to the force during January, as we have a scheduled meeting with Kennebec Valley Community Action Program. If we can establish contractual arrangements with all six new agencies in addition to MSHA, and if each of the six agencies can employ even

one additional full-time counselor as the result of our funding, that will mean that more than 600 additional homeowners will receive counseling and assistance, since in our experience each well-trained housing counselor can assist up to 125 homeowners to prevent foreclosure each year.

Funding for the program is derived from an assessment that lenders pay at foreclosure auctions if they purchase the mortgaged property at the auction. The revenue is directed into a Foreclosure Prevention Fund and the monies can be used only for the specific purposes of operating the State's new foreclosure prevention efforts. In July and August of 2009 the assessments came in slowly and did not cover the costs expended by the Bureau to establish a new toll-free foreclosure hotline and to pay for the development of new software, internet and e-mail accounts designed to permit lenders and servicers to report the names and addresses of defaulting consumers to the Bureau electronically. However, by September and October it became clear that at least while the current rate of foreclosure and foreclosure auctions is maintained, the fund can support the costs of contracts with up to six non-profit agencies, as well as covering the direct costs of the program such as printing and postage for the packages of information to homeowners who have defaulted on their mortgages (the bureau mailed out 10,847 such packages in 2009).

After receiving the bureau's informational package or after hearing of the State's assistance program, more than 700 consumers have called the foreclosure prevention hotline, 1-888-664-2569 (1-888-NO-4-CLÖZ), since July to obtain assistance and advice on dealing with mortgage default. We received many additional calls each week on our regular consumer assistance lines from consumers who are far along in the foreclosure process, including those whose houses are already scheduled for auction. Many of these referrals came from the Maine House and Senate Majority and Minority offices, from individual legislators, and from the Washington or district offices of each of the four members of the Congressional delegation.

In cases in which consumers allege a violation of law on the part of the lender or servicer, or in cases that are at a critical stage (close to default or summary judgment for non-response in court; in the redemption period; or near actual auction date) when a delay of any sort would prejudice the consumer, the Bureau retains the case and intervenes under its authority as administrator of the Consumer Credit Code or as coordinator of the State's new foreclosure prevention program.

To provide the most efficient service or referrals, members of the Bureau staff have participated in training to familiarize themselves with the various federal government programs, as well as the upcoming statewide court mediation process. To that end, senior employees have made presentations to the court mediators who will be assigned to cases statewide starting this month, and they have received foreclosure-prevention training available through HomeWorks in Maine and also (with MSHA funding) through HUD, the US Department of Housing and Urban Development.

To date, the Bureau's direct work on behalf of homeowners has been productive, as staff was successful in 2009 in convincing lenders to postpone or cancel more than 20 foreclosure auctions; to rescind one auction that had already been held; and to modify the terms of 30 mortgage loan contracts to make them affordable by the consumers.

When lenders report on homeowners to whom they have sent default notices, they are asked to indicate the county of residence of the consumers involved. From that data we have derived the following totals indicating the numbers of defaulting consumers in each county from June 15, 2009 through December 31, 2009:

Cumberland: 1,915 consumers	Hancock. 326
York: 1,228	Waldo. 315
Penobscot: 1,091	Aroostook 300
Androscoggin: 741	Lincoln. 281
Kennebec: 738	Knox: 223
Oxford. 496	Franklin: 156
Sagadahoc: 486	Piscataquis: 146
Somerset: 343	Washington: 136

We were particularly concerned late in 2009 to see a high numbers of defaults (relative to the county's small population) in Sagadahoc County, which was approximately twice the rate of the average of other counties statewide (extrapolating from 3-month figures led to the conclusion that more than 6% of Sagadahoc County homeowners defaulted on their mortgages in 2009). Calls to town officials made clear that defaults may relate to the continued wind-down of the former Brunswick Naval Air Station, as well as inconsistencies in steady employment opportunities provided by the area's largest private employer, Bath Iron Works. We will do our best to focus appropriate outreach and assistance efforts and resources toward homeowners in this region.

We are still unable to provide complete homeowner default figures to the Committee, since a loophole in the reporting law became evident following enactment of PL 402. The Bureau will work with the sponsors of LD 1418 and with the Committee Analyst to support an amendment to the law clarifying that the statute as intended applies to all mortgage foreclosures initiated in Maine, regardless of the terms of the original mortgage note or contract. That clarification to the law, when enacted, will result in an increase in the number of homeowner defaults reported to the Bureau, and will improve the completeness of these quarterly reports to the Committee.

Overall in terms of the rate of civil foreclosure in Maine, our bureau relies on a reporting service, RealtyTrac, which counts the number of cases in which foreclosure filings were made in court on a monthly basis. At the beginning of 2009, approximately 300 Maine homeowners were in foreclosure each month. As illustrated by the following chart, that number increased slowly but steadily throughout the year, such that by the end of the year between 380 and 400 civil foreclosures were active each month, according to RealtyTrac.

Maine Foreclosure Activity 2009 (Number of court cases in which legal filings were made.)



We expect that a portion of this increase may be due to lenders rushing to file foreclosures before the more protective laws (for example, the law requiring mediation upon homeowner request) took effect in January of 2010. However, we also believe that until economic conditions improve, Maine will continue to see a large number of foreclosure filings.

While our state is experiencing a rate of foreclosure far below the national average (Maine ranks favorably, between 40th and 45th among states in its rate of foreclosure), we believe, based on the high rate of default reported by lenders to our office, that the rate of foreclosures will maintain a plateau at its current rate, perhaps through the first four months of calendar year 2010. At that point, we hope that lenders will receive proper incentives through the efforts of this Maine law as well as pressure under the federal Making Homes Affordable program and other efforts, so that the State will experience a gradual but steady decline in the rate of foreclosure filings.

Consumer advocates' attention shifts to the Maine court system starting this month, as the York County pilot project to provide mandatory foreclosure mediation to any consumer who requests it, expands statewide. Bureau staff worked to revise the original one-page "Response to Foreclosure and Request for Mediation" document that is served (together with a pre-addressed envelope to the court) with each Civil Foreclosure Summons and Complaint, to make it even easier for consumers to understand and use, and we distributed that revised document to the courts, to consumer lawyers and to the foreclosure plaintiffs' bar.

The Bureau wishes to thank the Committee for its ongoing support as the implementation process continues. We look forward to reporting to the Committee after the first quarter of calendar year 2010 on the results of the new statewide court-directed foreclosure prevention mediation program.