

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



STATE OF MAINE  
 DEPARTMENT OF PROFESSIONAL  
 AND FINANCIAL REGULATION  
 BUREAU OF CONSUMER CREDIT PROTECTION  
 35 STATE HOUSE STATION  
 AUGUSTA, MAINE  
 04333-0035

Paul R. LePage  
 GOVERNOR

William N. Lund  
 SUPERINTENDENT

**To:** Senator Rodney Whittemore, Chair and Representative Wesley Richardson, Chair  
 Joint Standing Committee on Insurance and Financial Services

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

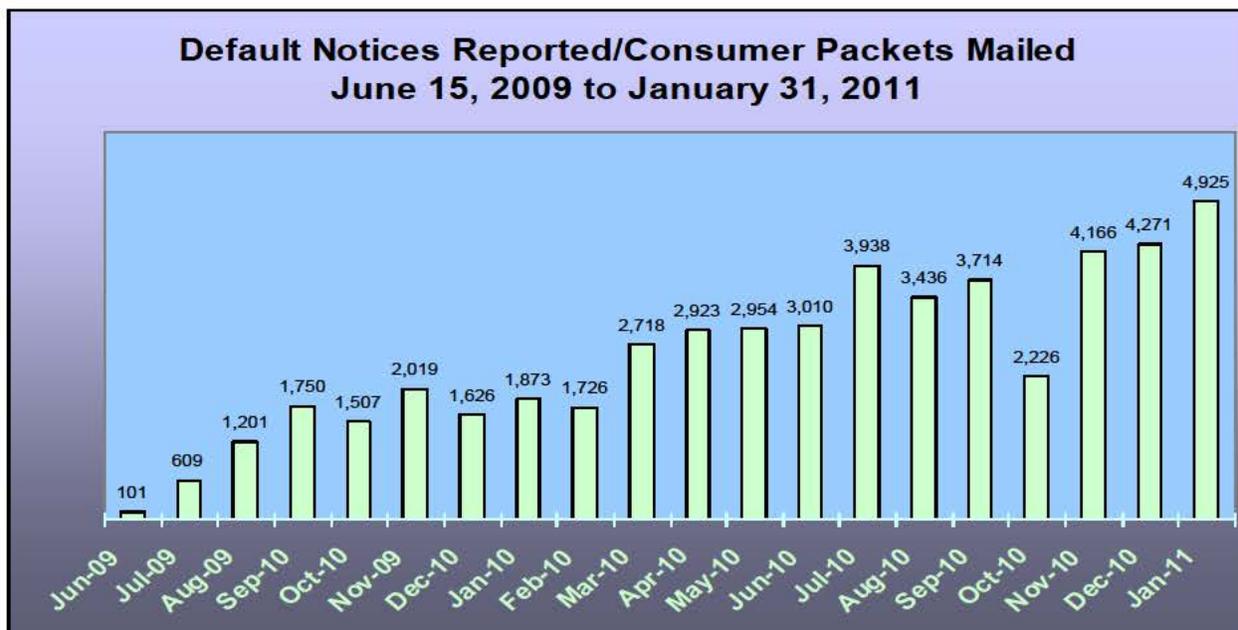
**Re:** Periodic Foreclosure Report pursuant to PL 2009, Ch. 402

**Date:** February 16, 2011

Public Law 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 regular basis regarding implementation and results of the Bureau’s foreclosure prevention program. This report covers events of the most recent quarter, and also provides data and insights from the Bureau’s first 18 months of overseeing the foreclosure prevention program.

**I. RECENT DEVELOPMENTS**

As indicated by the chart below, lenders have been sending mortgage default notices to Maine homeowners at an unprecedented rate, and the Bureau in turn has mailed more outreach packets per month than at any previous time in the agency’s administration of this program.



Since the Bureau's mailings to homeowners highlight the availability of the agency's toll-free hotline and no-cost housing counselor referral service, calls to the Bureau's hotline are occurring with greater frequency than at any time since its establishment in June, 2009.

The variety and complexity of the calls has remained constant. Each week the Bureau's staff members hear from consumers whose payments are current but whose budgets are stretched. Other callers are just one month behind, or 6 months delinquent, or they've just been served with a foreclosure summons and complaint. Some are in the midst of litigation, while still others tell us their houses are scheduled for auction sales. In addition, the Bureau continues to receive calls from consumers who have been served with eviction notices, meaning that the foreclosure auctions have occurred and they are no longer the legal owners of the property.

On average, Bureau staff refers about 100 cases each week to a network of trained housing counselors. The Bureau has entered into a total of 12 contracts – totaling \$728,404 – with non-profit groups located all over the state in an effort to ensure that a maximum number of consumers can receive assistance from counselors. Three of those contracts (with Washington Hancock Community Action Program, Coastal Enterprises, Inc. and Penquis) were signed within the last 6 months, based on high caseloads being handled by those agencies.

## **II. CURRENT STATE OF THE PROGRAM**

As stated above, the program's activity continues at a high rate. The foreclosure prevention program has grown such that it now takes more time and resources than any other aspect of the Bureau's regulatory activities. When staff returns to work on Monday after a weekend, it is not unusual for the answering machine connected to the consumer hotline to hold more than 20 voicemails from homeowners seeking assistance. The number of informational packets mailed out in response to information from lenders ranges from 200 per day, to a high of 600, averaging about 235.

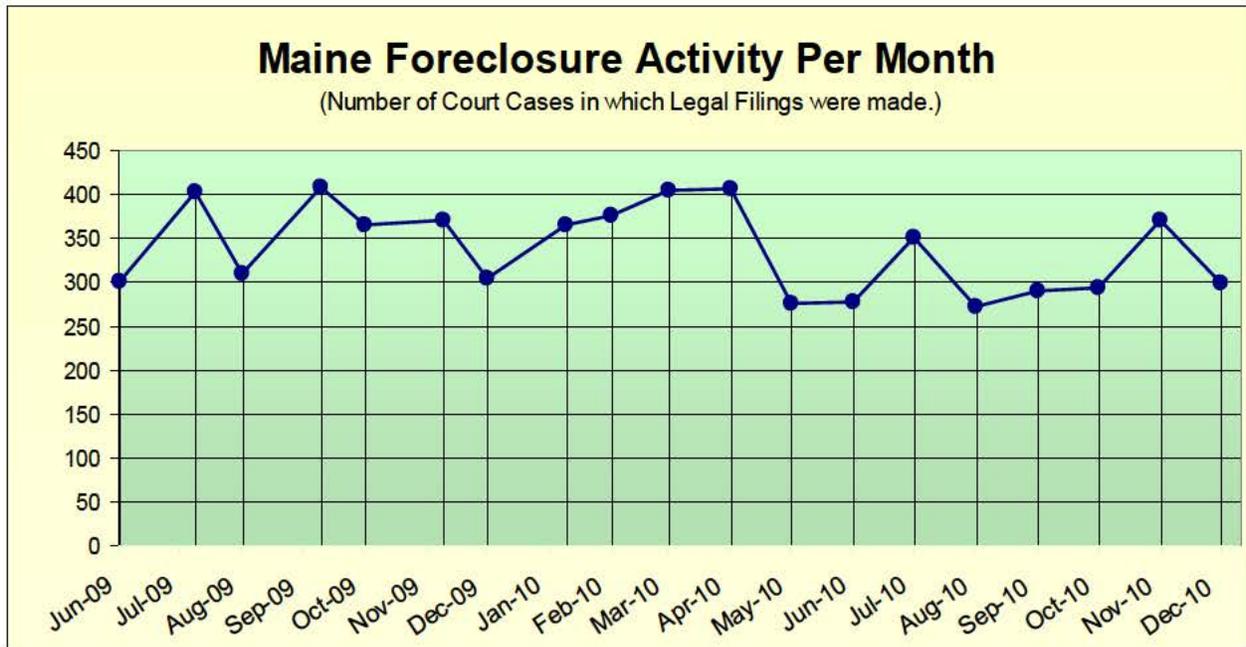
The Bureau's program is now considered the "go to" clearinghouse for foreclosure-related referrals. As a result, each week the Bureau receives cases forwarded from the Legislature's majority and minority offices; from individual lawmakers; and from state offices of Maine's Congressional delegation.

Bureau staffers who respond to consumers on the foreclosure hotline introduce themselves and orient the callers to the general nature of the program. The staffer then works with the homeowner to complete a 2-page intake form. If the case involves an emergency situation or relates to the Bureau's regulatory functions, the file is handled immediately by the Bureau's investigator or staff attorney. However, in cases in which the homeowner would benefit from the financial and negotiating assistance of outside, HUD-approved housing counselors, the intake form is electronically transmitted to the non-profit housing counselors with which the Bureau has ongoing contractual relationships.

Initial calls with consumers take approximately 30 minutes. These calls are now distributed among all complaint response staff, each of whom has been trained on the data-gathering and referral process. Since the program began, Bureau staff members have worked with more than 3,000 Maine homeowners.

### III. MAINE FORECLOSURE TRENDS

The Bureau relies on a national report service, RealtyTrac, which tallies, on a monthly basis, the number of pending civil foreclosure cases in which legal filings were made. The chart below reveals the number of court cases in which foreclosure filings were docketed between June, 2009 (when the Bureau's foreclosure prevention program was initiated) and December 2010 (the most recent month for which figures are available).

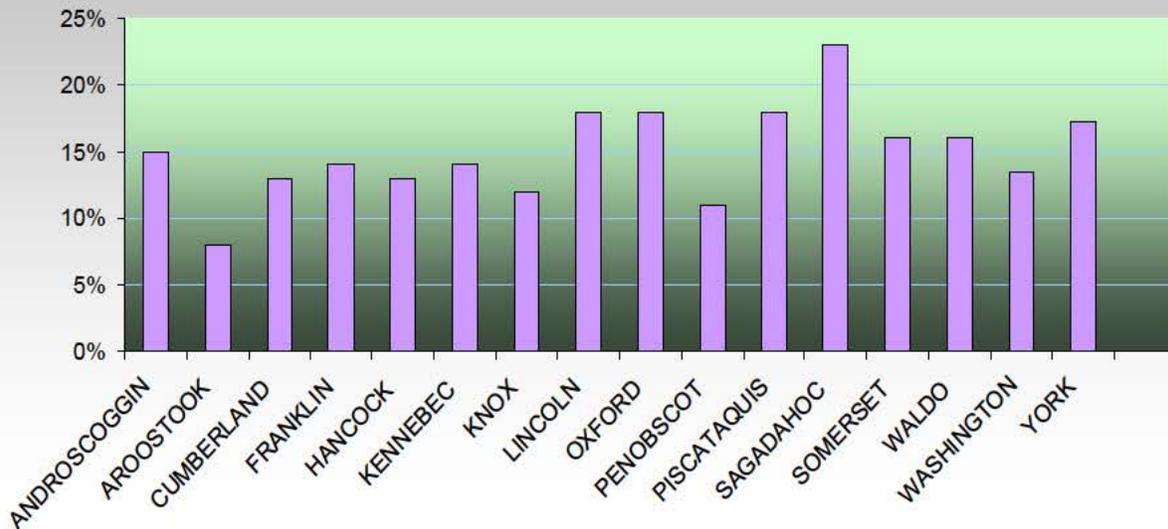


The slight decrease in court activity in foreclosure cases during August, September, October and December, 2010 was likely the result of lenders waiting out the effects of the so-called “robo-signing” controversy, which occurred when several major nationwide lenders admitted their staff had been preparing faulty affidavits for filing in foreclosure cases. In such affidavits, employees of the lender or servicer attest that the figures found in the affidavits are the result of the employees’ review of documents relating to the loan. In fact, some lenders admitted, the employees signing many of the affidavits did not have actual knowledge of the assertions made in the affidavits.

### IV. DEFAULTS BY COUNTY

When lenders notify the Bureau of the names and addresses of consumers who have been sent a Notice of Right to Cure Default (a pre-foreclosure notice), the lenders are also required to provide the county of residence of the consumers involved. The chart below presents that information, graphing the percentage of households in each Maine county that received a default notice between June, 2009 and December, 2010.

**Percentage of Households by County  
Receiving a Mortgage Default Notice  
June 15, 2009 - December 31, 2010**



The percentages above are calculated as follows: 1) County population as determined by the most recent US Census Bureau data; 2) reduced by 25% to account for rental tenants (as opposed to homeowners); 3) divided by 4 (assuming 4 residents in an average household); then further reduced by 25% to account for the fact that in a percentage of households, two property owners may each receive a default notice.

The Bureau believes the high level of defaults in Sagadahoc County may reflect the lingering effects of the Brunswick Naval Air Station closure and conversion, while the large numbers of affected families in certain other counties (such as Oxford, Lincoln and Piscataquis) result from the string of closures of manufacturing plants in those counties, as well as the especially difficult economic conditions and challenging job prospects in those regions.

**IV. BUREAU WORK PERFORMED, JUNE 2009 – DECEMBER 2010**

Since the inception of the foreclosure prevention program in June 2009, the Bureau has mailed more than 50,000 individual resource packages to Maine homeowners. The Bureau sent out 3,800 mailings, averaging 224 each work day in January, 2011.

After receiving the Bureau’s informational package or after hearing of the State’s assistance program, more than 2,600 consumers have called the foreclosure prevention hotline, 1-888-664-2569 (1-888-NO-4-CLÖZ), to obtain assistance and advice on dealing with mortgage default.

To date, the Bureau’s direct work on behalf of homeowners has been productive, as staff has been successful in convincing lenders to postpone or cancel more than 40 foreclosure auctions; rescind several auctions that had already been held; and modify the terms of 52 mortgage loan contracts to make them affordable by the consumers.

Overall, the housing counselor network to which we refer cases has been extremely productive. The counselors report to the Bureau on a regular basis as a condition of continued funding, and according to the reports provided to the Bureau by the non-profit housing counselors, a total of 2,670 separate households benefited from loan modifications, deferrals and other non-foreclosure outcomes during calendar year 2010.

In 2009 the Bureau complied with the Legislature's directive in PL 2009, Ch. 402 by drafting a single-page legal document for consumers to use to respond to a foreclosure action filed against them. The form also serves as a request for court-sponsored mediation. Lenders must provide this one-page document to consumers when the lenders cause sheriffs to serve the consumers with foreclosure papers. The Bureau is currently working with foreclosure attorneys, Pine Tree Legal Assistance and the court system to develop an instructional sheet designed to accompany the foreclosure summons and complaint, to explain the process to homeowners and to instruct them how to preserve and assert their legal rights in the civil and mediation processes.

## **V. UNLICENSED LOAN MODIFICATION COMPANIES**

Foreclosure rescue companies and unlicensed debt management service providers continue to prey on distressed consumers, promising to save their homes from foreclosure. Since the beginning of the foreclosure prevention program in June 2009, the Bureau has received complaints from 421 Maine homeowners who enrolled with unlicensed debt management service providers or unlicensed foreclosure prevention companies yet received no benefit from the companies. As a result of the Bureau's investigations into these complaints, more than \$375,000 has been returned to Maine consumers from these unlicensed companies.

The Bureau's staff remains committed to pursuing and prosecuting these companies, since they mislead consumers during a particularly susceptible time in their lives, offering false hopes of loan modifications, and taking funds that would be better put toward down payments on loan modification plans offered by the homeowners' own lenders.

## **VI. FORECLOSURE MONITORING BY THE BUREAU OF FINANCIAL INSTITUTIONS**

The Bureau of Financial Institutions (BFI) within the Department of Professional and Financial Regulation closely monitors foreclosure activity initiated by Maine-chartered banks and credit unions – surveying these financial institutions quarterly since October of 2006. Although the rate of foreclosures initiated by these state-chartered institutions has been relatively low compared to foreclosures initiated by out-of-state, nationally-chartered banks and non-bank lenders, recent quarterly reports have shown an increasing numbers of “in-process” and “completed” foreclosures. In the third quarter of 2010, state-chartered institutions reported 216 mortgages "in-process" and 46 "completed" foreclosures. More information about this quarterly survey, as well as the most recent results, can be found on the BFI website ([www.maine.gov/pfr/financialinstitutions](http://www.maine.gov/pfr/financialinstitutions)) under the “News” link.

## **CONCLUSION**

The Bureau of Consumer Credit Protection is proud of its role in assisting Maine consumers to avoid foreclosure, enforcing Maine's anti-predatory lending laws, negotiating loan modifications and administering the network of non-profit housing counselors. Staff will

continue to provide outreach and education, sponsor training opportunities, and enter into contracts with additional outside counseling agencies. The complaint resolution staff will continue working with lenders and servicers, encouraging them to offer reasonable loan modifications. Finally, the agency will coordinate its efforts and resources with providers of other foreclosure prevention measures, including the court-sponsored mediation program.

The Bureau wishes to thank the Committee for its ongoing interest in, and support of, this program.