

MAINE STATE LEGISLATURE

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To: Senator Rodney Whittemore, Chair
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: August 24, 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 summarizes information from the period January 1, 2011 through June 30, 2011, and also provides data and insights from the Bureau’s first two years of overseeing the foreclosure prevention program.

I. RECENT DEVELOPMENTS

The Maine Legislature was active in addressing mortgage issues during the recent session. The Consumer Credit Code’s mortgage lending provisions were amended to align the core protections to those of the new federal law; and to retain certain “enhanced” protections applicable to non-bank lenders but not to depository institutions (federal and state banks). Bankers successfully advocated for these changes, based on the fact that they are subject to a great deal more regulatory scrutiny on the state and federal levels than are non-banks.

In other legislative action, lawmakers debated but then carried over a bill that would entitle a homeowner in foreclosure to require the lender or servicer to produce and make available for examination the original note and mortgage. This issue arose when evidence surfaced that lenders in this state and around the country sometimes initiated foreclosure actions even when they were unable to provide documentary proof that they owned the debt or otherwise had the right to start a foreclosure action.

In July the Bureau assisted HUD in publicizing the availability of funds through a program called the Emergency Homeowners Loan Program (ELHP). Nationally, \$1 billion was appropriated to provide two years of mortgage payment relief to eligible homeowners who are facing unemployment or emergency medical expenses. The Bureau inserted brochures for the program in our mid-July foreclosure packages sent to consumers in default on their mortgages. Approximately, 250 Maine households will benefit from this program.

II. CURRENT STATE OF THE PROGRAM

Each day, lenders and servicers around the country send documents called “Notices of Right to Cure Default” to Maine homeowners who are in default (*i.e.*, who have not made a payment or payments as required by their contracts). The lenders’ notices give the consumers 35 days to “catch up” (pay overdue installments), or else the debts will be accelerated (declared due in full) and the lenders are entitled to proceed to foreclosure.

When lenders and servicers mail this paper notice to homeowners, they simultaneously send the names and addresses of the homeowners to the Bureau of Consumer Credit Protection. This information is provided electronically. The Bureau’s staff, in turn, within a single work day, mails an envelope to the consumer to provide information about the foreclosure prevention program and resources available to Maine residents. This informational packet highlights several pieces of information of substantial importance to homeowners facing possible foreclosure:

- 1) Identifies the Bureau as administrator of the foreclosure prevention program;
- 2) Encourages homeowners to call the Bureau’s toll-free hotline;
- 3) Lists counseling resources available statewide;
- 4) Describes the foreclosure process;
- 5) Describes the Judicial System’s mediation program (available to homeowners, upon request, if they are subsequently sued in foreclosure); and
- 6) Provides information on foreclosure rescue scams.

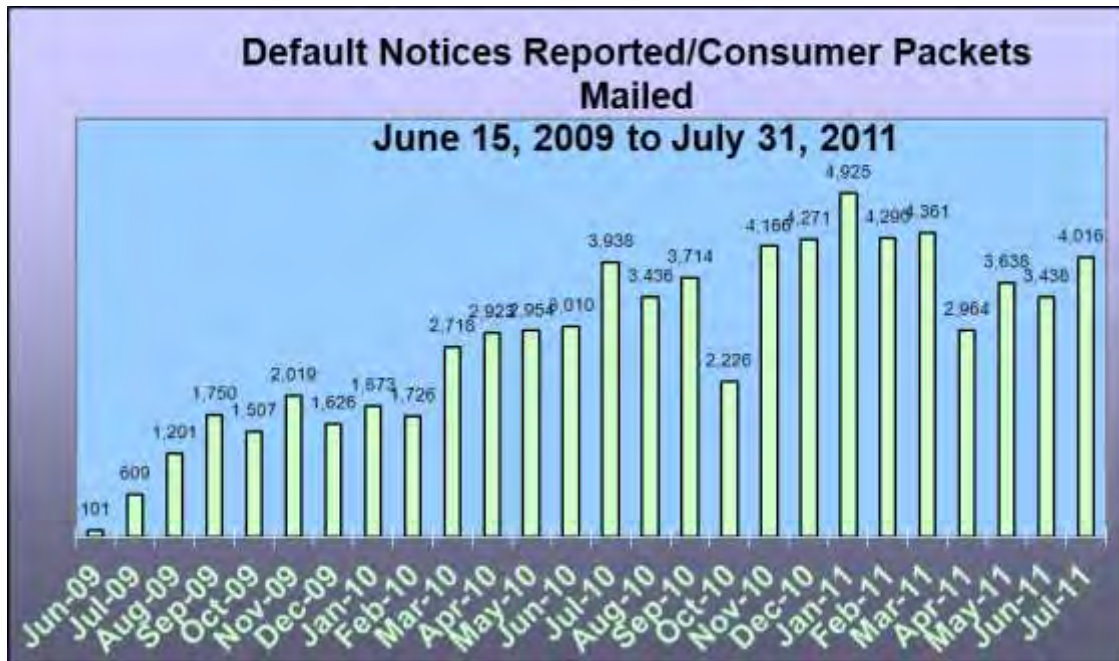
Each day Maine consumers contact the Bureau’s hotline, and the employees assigned to the hotline spend between 15 and 45 minutes with each caller completing a 2-page intake form, which is then evaluated. If it’s an emergency situation (an imminent foreclosure auction, for example) or involves allegations of violations of Maine’s lending or servicing laws, Bureau staff processes the matter directly. Otherwise, staff electronically transmits the intake forms to one of the 12 HUD-certified foreclosure prevention counselors around the state with whom the Bureau has entered into contracts.

The housing counselors contact the consumers by phone or other means, and obtain all the information necessary to apply to the consumers’ lenders for a loan modification. If maintaining the home is not practicable (for example, if the consumer has neither income nor prospects for future income), then the counselor will work with the consumer and the lender to develop a plan to minimize the impact of the default (*e.g.*, arranging for a short sale or a deed-in-lieu of foreclosure).

If the homeowner is sued in foreclosure, the counselor will often accompany the consumer to the pre-foreclosure orientation session, explaining forms and procedures, and even to the mediation itself, assisting the consumer toward the best and most appropriate outcome.

The twelve counselors around the state each carry large caseloads of 100 or more open files. Their work is complex, and they must be organized, empathetic to the needs of the consumer, and persistent in dealing with multiple offices within lenders’ organizational structures.

As indicated by the following chart, the numbers of reported new defaults decreased slightly in recent months from the high in January, 2011 of 4,925, to an average of 3,347 during the months of April, May and June. While this reduction may appear as a positive sign, it is still a large number of homeowners in default; and these are “new” defaults, so the numbers do not reflect the number of homes on which the debt has already been accelerated and the balance has been declared owed in full, nor to the homes considered part of the statewide “foreclosure inventory” in which the foreclosure process is underway or complete.



In evaluating how best to direct the resources of the program, the Bureau relies on several national sources for information; namely, the quarterly national mortgage delinquency report compiled by the Mortgage Bankers Association, (MBA), and the quarterly reports issued by a national reporting service known as RealtyTrac.

In February 2011, the MBA released its national delinquency survey for the first quarter of 2011. The results for Maine were mixed.

- The total number of loans with installments past due decreased to 7.27%, down nearly a full percentage from the 8.21% figure reported for the 4th quarter of 2010.
- The percentage of loans seriously delinquent (90-plus days in arrears, including those homes considered part of the foreclosure inventory) remained unchanged at 8.26%.
- The foreclosure inventory percentage (the percentage of homes that are in the foreclosure process at the end of the quarter) increased to 5.48%, from 5.27% in the 4th quarter of 2010.

When dealing with percentages, it’s important to also include a tally of actual households, in order to gain a sense of the absolute number of Mainers facing imminent foreclosure. Given the state’s 157,000 households that hold mortgages, the 8.26% figure reflecting “serious delinquency” means approximately 13,500 homeowners in Maine are currently seriously delinquent on their loans and face foreclosure, or their homes are already considered in the “foreclosure inventory” category.

National rankings make clear that foreclosures have hit Maine hard. As of March 31, 2011:

- Maine ranks 27th in total “past due” loans (unchanged from the 4th quarter of 2010)
- Maine ranks 12th in seriously delinquent loans (worse than its 15th ranking at the end of 2010)
- Maine ranks 5th in “foreclosure inventory” (one worse than its 6th place result at the end of 2010 and behind only the foreclosure “leaders” such as Nevada and Florida)

The MBA report predicts that the rate of national foreclosures will remain high until 2014 – 2015, and there is no sign that Maine’s situation will improve more rapidly than the national trend.

III. MAINE FORECLOSURE TRENDS/DEFAULTS BY COUNTY

RealtyTrac, a private foreclosure reporting service, tallies, on a monthly basis, the number of open 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 and March 2011 (the most recent quarter for which figures are available).

County	2008 Q1	2008 Q2	2008 Q3	2008 Q4	2009 Q1	2009 Q2	2009 Q3	2009 Q4	2010 Q1	2010 Q2	2010 Q3	2010 Q4	2011 Q1
Androscoggin	14	28	43	52	35	35	55	59	93	56	60	47	52
Aroostook	2	9	7	16	17	9	20	11	3	2	1	4	1
Cumberland	73	101	113	138	72	132	124	125	147	86	117	138	185
Franklin	2	3	7	5	2	5	5	11	13	4	4	3	12
Hancock	7	7	7	13	10	15	11	7	10	4	7	2	4
Kennebec	105	123	101	151	125	134	206	201	214	123	172	166	127
Knox	1	2	6	5	1	3	9	5	3	1	2	2	4
Lincoln	3	4	2	8	6	6	8	4	6	3	6	5	5
Oxford	10	16	18	21	20	14	36	17	26	20	15	24	18
Penobscot	126	172	182	210	203	220	318	164	214	205	174	150	208
Piscataquis	5	6	4	6	4	3	4	3	3	2	6	1	3
Sagadahoc	7	12	14	13	8	9	19	26	14	14	13	22	28
Somerset	11	16	28	23	19	21	16	26	31	18	18	17	11
Waldo	1	6	5	21	5	8	7	6	6	4	0	3	2
Washington	1	3	10	7	6	5	6	1	6	4	8	2	3
York	219	317	244	216	243	210	209	337	332	371	287	317	236
Maine Total	587	825	791	905	776	829	1053	1003	1121	917	890	903	899

RealtyTrac also analyzes the *types* of filings being made in civil foreclosure actions, including initial filing notices, foreclosure auction notices and bank repossession notices. For Maine, the following chart shows that the filings are divided approximately into thirds, with 31% of cases being in the initial stages of foreclosure; 38% being subject to pending auctions; and 31% showing filings reflecting that the bank has become the owner of record and is evicting the consumers from the premises (bank-owned, also known as “REO,” or “real estate owned”).

Maine Foreclosure Status Distribution:

Pre-Foreclosure ■ Auction ■ Bank-Owned ■

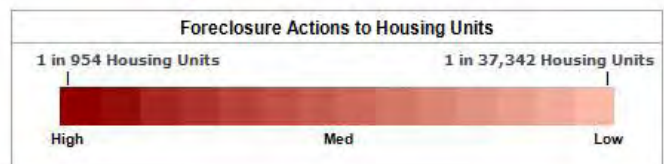
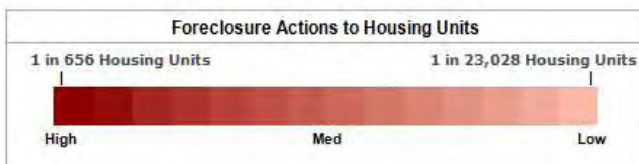
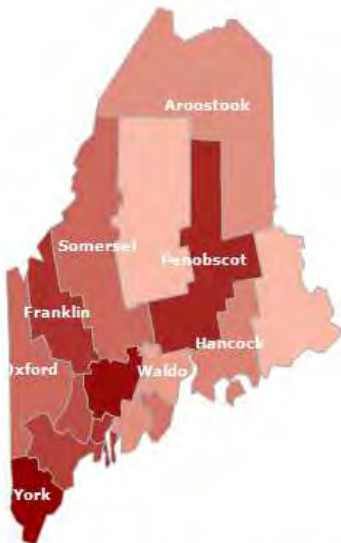


Analysts measure foreclosure activity using “heat maps” such as those shown below. The darker red colors signify more “new filings” of foreclosures, as a percentage of the number of residences, on a per-county basis. Comparing the two maps, it’s clear that York, Kennebec and Penobscot Counties continue to experience new foreclosures at a high rate.

Maine “Foreclosure Rate Heat Maps” for June, 2011 and July, 2011 by county

New foreclosures, June, 2011

New foreclosures, July 2011



IV. BUREAU STATISTICS, JUNE 2009 – JUNE 2011

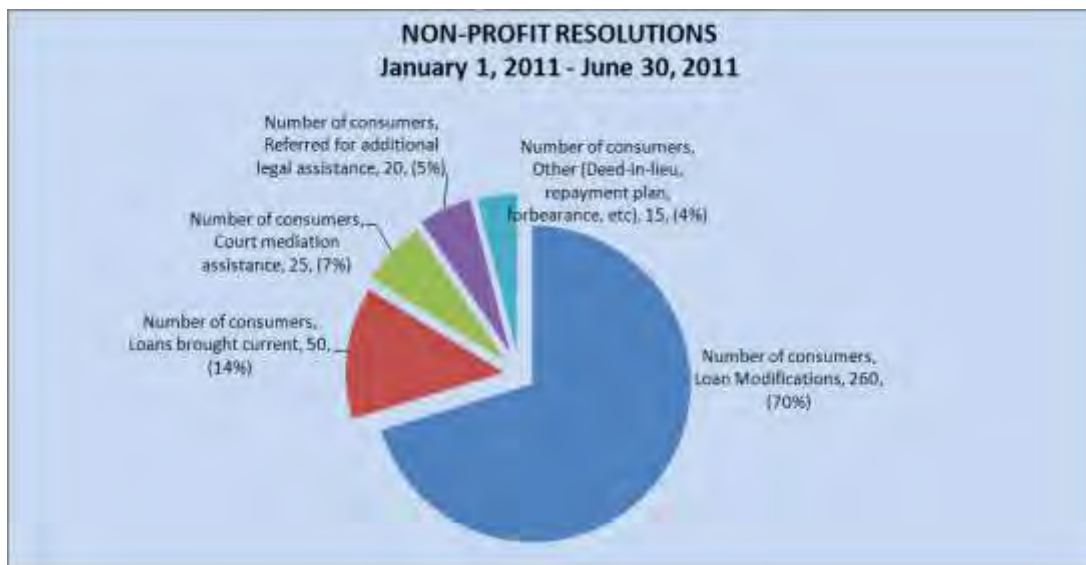
Since the inception of the foreclosure prevention program in June 2009, the Bureau has mailed more than 50,000 individual resource packages to Maine homeowners. After receiving the Bureau's informational package or hearing of the State's assistance program, more than 3,100 consumers have called the foreclosure prevention hotline, 1-888-664-2569 (1-888-NO-4-CLÖZ), to obtain assistance and advice on dealing with mortgage default. The 3,100 callers do not constitute a complete measure of how many homeowners have sought assistance as the result of receiving the Bureau's informational material, since according to non-profit counselors many consumers use the information and contact the counselors directly without utilizing the hotline or requiring Bureau intake and referral.

As indicated previously in this report, in cases involving emergencies or in which regulatory involvement is appropriate, the Bureau handles foreclosure cases using its own staff. Approximately 300 cases have been handled in this manner since the program began, and staff has obtained loan modifications or ensured that lenders gave appropriate consideration to consumers' proposals to avoid foreclosure. Bureau records reflect that staff has intervened to stop or delay more than 120 foreclosure auctions, and on several occasions has convinced lenders to rescind auctions already held.

V. RESULTS FROM NON-PROFIT COUNSELORS FOR THE MOST RECENT 6-MONTH PERIOD

In the six months from January to June, 2011, the Bureau referred approximately 700 individual cases to its network of nonprofit counseling counselors. During that same period, counselors report the following results of their work on behalf of homeowners:

- ✓ Loan modifications achieved: approximately 260
- ✓ Loans brought current: approximately 50
- ✓ Court mediation assistance provided: approximately 25
- ✓ Referred for additional legal assistance: approximately 20
- ✓ Other resolution (deed-in-lieu, repayment plan, forbearance): approximately 15



VI. NEXT STEPS

Pursuant to the provisions of PL 2011, c. 427 (LD 1338), the Bureau scheduled two meetings of a study group created to determine whether the foreclosure prevention program can be streamlined and made more efficient. The study group met August 16, 2011 and is scheduled to meet on September 13, 2011. It will report to the Committee on Insurance and Financial Services by December 7. The group will review such issues as whether the mailing of informational packages should be delayed until the consumer is 60 days in default; whether the informational packets could be delivered by lenders; and similar topics designed to ensure that the program's funds are spent efficiently.

At the direction of the study group, the Bureau is carefully analyzing lists of homeowners whose names have been reported as in default on their mortgages. We will work closely with lenders and servicers to ensure that any duplication is eliminated, leading to more efficient allocation of the programs resources.

The Bureau will continue to provide outreach and education, sponsor training opportunities, and renew contracts with those counseling agencies whose work has proven beneficial to consumers. The complaint resolution staff will work 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.