

# 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 L. Whittemore, Chair  
Representative Wesley E. Richardson, Chair  
Joint Standing Committee on Insurance and Financial Services

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

**Re:** 12<sup>th</sup> Quarterly Report on the Bureau's Foreclosure Diversion Program

**Date:** November 27, 2012

### EXECUTIVE SUMMARY

This report provides information for the Bureau of Consumer Credit Protection's Foreclosure Diversion Program for the third quarter of CY '12. During this 3-month period, the rate of Maine mortgage default notices sent to the Bureau by lenders and loan servicers remained high, with over 9,700 received in the third quarter, an increase of more than 6% compared to the second quarter. The number of notices sent to homeowners in this state has stayed at this consistently high rate for the last two years.

The pace of civil foreclosure filings in court has also remained high. Lenders filed a total of 1,016 new foreclosures in the third quarter, compared to 1,132 in Q2 and 1,087 in Q1. The majority of the filings were initiated by out-of-state lenders, and with only about 8% of new foreclosures being filed by banks or credit unions chartered in Maine.

HUD certified counselors under contract with the Bureau reported the following trends:

- Out of state loan servicers continue to make errors in processing loan modification applications.
- Counselors are receiving a substantial number of "constituent" counseling referrals from state and federal elected officials.
- For many Mainers who have been able until now to maintain mortgages through savings and other assets, those sources of payment are running out. The national economy is recovering very slowly, and some homeowners have depleted not only their budgeted amounts but also their emergency funds and sources.
- Maine counselors, with the oversight of our bureau's hotline and referral system, have among the best records in the nation in assisting distressed homeowners.

## DESCRIPTION OF THE PROGRAM

The Foreclosure Diversion Program was established by Title 14 M.R.S. § 6112 in 2009. At the same time, amendments to Title 14 M.R.S. § 6111 established the requirement that lenders notify the Bureau of Consumer Credit Protection of such action as they begin the foreclosure process on residential mortgages by sending out so-called “Notice of Default and Right to Cure” letters. The Bureau, upon receipt of such notices, is required to send informational packets to the homeowners in danger of foreclosure, advising them of their rights and available resources such as the availability of HUD certified counselors through the Bureau’s Hotline (1-888-NO-4-CLÖZ or 1-888-664-2569) or mediation available in the court foreclosure process.

In addition to notices received from lenders beginning the foreclosure process, the Bureau on a regular basis receives referrals of and/or handles complaints from constituents of our state and federal elected officials. In the last quarter, cases have been received from Governor LePage’s Office, as well as the federal and district offices of Senator Snowe, Senator Collins, Representative Michaud and Representative Pingree, as well as from several state representatives and senators and their majority and minority staff offices.

## MORTGAGE DEFAULT NOTICES RECEIVED

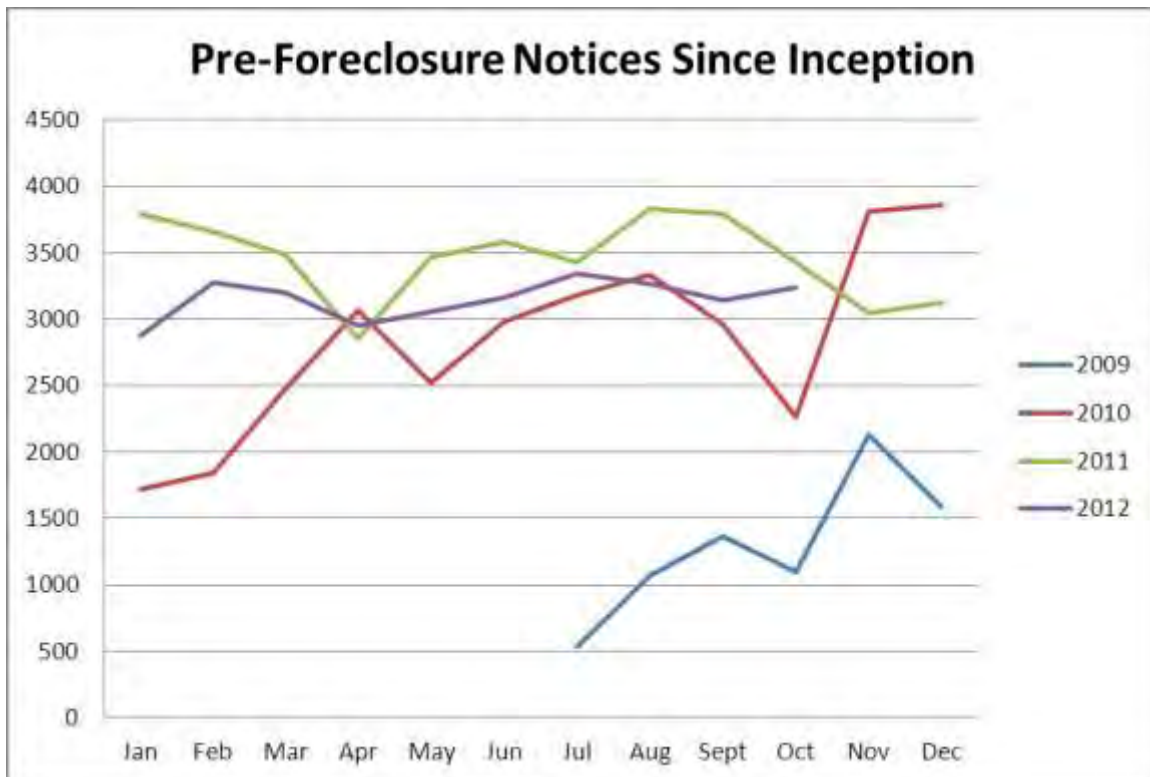
Title 14 M.R.S. § 6111 requires that the Bureau report quarterly on the number of Maine homeowners who receive default notices, and the number of foreclosure filings in the courts of the state. The following chart shows notices received by county since the beginning of the year.

County	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12
Androscoggin	225	260	314	272	215	258	294	273	248	257
Aroostook	101	114	113	98	103	104	116	108	128	104
Cumberland	480	578	587	543	559	517	566	572	479	626
Franklin	78	95	79	61	76	62	73	53	72	57
Hancock	93	130	105	71	106	128	92	89	81	94
Kennebec	334	342	279	322	288	304	331	299	325	305
Knox	77	101	85	104	107	128	80	122	202	96
Lincoln	112	116	131	99	103	146	107	137	107	113
Oxford	139	166	181	141	152	172	157	155	144	163
Penobscot	290	360	330	307	337	360	444	377	363	383
Piscataquis	45	58	43	38	38	57	34	38	46	47
Sagadahoc	127	105	140	131	115	129	156	138	178	129
Somerset	88	147	127	118	108	133	131	144	122	138
Waldo	90	107	86	63	108	99	113	106	95	101
Washington	71	105	91	87	85	85	77	75	88	119
York	519	488	506	495	553	479	573	579	466	508
<b>Total:</b>	2869	3272	3197	2950	3053	3161	3344	3265	3144	3240

The Bureau received and processed 9,753 notices of mortgage default in the quarter ending September 30, 2012, a 6.4% increase over the prior quarter. The following chart shows the total number of notices received each month since the inception of the program.

	2009	2010	2011	2012	Grand Total
Jan		1718	3793	2869	8380
Feb		1845	3655	3272	8772
Mar		2474	3486	3197	9157
Apr		3068	2851	2950	8869
May		2522	3464	3053	9039
Jun		2980	3578	3161	9719
Jul	534	3175	3430	3344	10483
Aug	1063	3329	3831	3265	11488
Sep	1359	2962	3789	3144	11254
Oct	1094	2265	3425	3240	10024
Nov	2128	3807	3045		8980
Dec	1586	3854	3119		8559
<b>Grand Total</b>	<b>7764</b>	<b>33999</b>	<b>41466</b>	<b>31495</b>	<b>114,724</b>

The final exhibit in this section consists of a graph showing the rate at which notices have been received monthly for each year since the program began. The graph shows that notices of impending foreclosure continue to be received at statistically and historically high levels.





## CIVIL FORECLOSURE ACTIONS FILED IN COURT

Title 14 M.R.S. § 6111 also requires the Bureau to report on actual foreclosure filings in the state courts, to the extent that such information is available. The Bureau of Financial Institutions provides foreclosure information relating to state-chartered banks and credit unions. The latest information available, for quarter ending June, 30, 2012 indicated that banks and credit unions chartered in Maine initiated relatively few new foreclosures. For example, Maine chartered banks and credit unions filed only 88 foreclosure actions in court in the second quarter of 2012. There were a total of 331 active, pending first lien mortgage foreclosures initiated by Maine chartered banks or credit unions active in Maine courts at the end of the second quarter.

The chart below reflects foreclosure actions filed in all Maine courts by all lenders for the first three quarters of 2012. 1,016 court files showed litigation activity in the 3<sup>rd</sup> quarter, compared to 1,132 in the second quarter and 1,087 in the first quarter.

Regarding which categories of lender or servicer are pursuing foreclosure actions in Maine, the breakdown is not yet available from any source for the third quarter. However, staff has no reason to believe the percentages would be markedly different from Q2, in which 92% of foreclosure filings (1,044) were initiated by out-of-state servicers and national banks, while 88 new filings (8% of the total) were initiated by Maine state-chartered institutions.

<b>Region/Court</b>	<b>1<sup>st</sup> Qtr Jan - Mar 2012</b>	<b>2<sup>nd</sup> Qtr Apr - Jun 2012</b>	<b>3<sup>rd</sup> Qtr Jul - Sep 2012</b>	<b>CY 2012 TOTAL</b>
<b>STATEWIDE TOTAL</b>	<b>1087</b>	<b>1132</b>	<b>1016</b>	<b>3235</b>
Alfred Superior Court	57	64	48	169
York District Court	41	27	19	87
Biddeford District Court	42	45	50	137
Springvale District Court	64	52	60	176
<b>Region 1 Subtotal</b>	<b>204</b>	<b>188</b>	<b>177</b>	<b>569</b>
Portland Superior Court	41	35	38	114
Bridgton District Court	43	56	53	152
Portland District Court	96	130	100	326
<b>Region 2 Subtotal</b>	<b>180</b>	<b>221</b>	<b>191</b>	<b>592</b>
South Paris Superior Court	28	19	18	65
Auburn Superior Court	36	44	41	121
Farmington Superior Court	9	14	8	31
Lewiston District Court	79	54	64	197
Farmington District Court	17	18	14	49
Rumford District Court	12	9	14	35
Livermore Falls District Court	0	0	0	0
South Paris District Court	23	24	15	62
<b>Region 3 Subtotal</b>	<b>204</b>	<b>182</b>	<b>174</b>	<b>560</b>
Skowhegan Superior Court	13	17	12	42
Augusta Superior Court	26	21	19	66
Skowhegan District Court	38	34	27	99
Waterville District Court	16	25	33	74
Augusta District Court	34	59	36	129
<b>Region 4 Subtotal</b>	<b>127</b>	<b>156</b>	<b>127</b>	<b>410</b>

<b>Region/Court</b>	<b>1<sup>st</sup> Qtr Jan - Mar 2012</b>	<b>2<sup>nd</sup> Qtr Apr - Jun 2012</b>	<b>3<sup>rd</sup> Qtr Jul - Sep 2012</b>	<b>CY 2012 TOTAL</b>
Dover Foxcroft Superior Court	3	4	8	15
Bangor Superior Court	51	56	34	141
Millinocket District Court	0	0	0	0
Dover Foxcroft District Court	9	6	11	26
Lincoln District Court	19	20	12	51
Newport District Court	18	14	17	49
Bangor District Court	40	42	54	136
<b>Region 5 Subtotal</b>	<b>140</b>	<b>142</b>	<b>136</b>	<b>418</b>
Wiscasset Superior Court	9	8	7	24
Bath Superior Court	12	5	4	21
Rockland Superior Court	8	12	5	25
Belfast Superior Court	10	14	6	30
Belfast District Court	26	23	20	69
Wiscasset District Court	18	22	18	58
West Bath District Court	39	39	28	106
Rockland District Court	21	19	18	58
<b>Region 6 Subtotal</b>	<b>143</b>	<b>142</b>	<b>106</b>	<b>391</b>
Machias Superior Court	4	11	7	22
Ellsworth Superior Court	15	4	11	30
Bar Harbor District Court	0	0	0	0
Machias District Court	7	13	18	38
Calais District Court	5	7	7	19
Ellsworth District Court	26	30	25	81
<b>Region 7 Subtotal</b>	<b>57</b>	<b>65</b>	<b>68</b>	<b>190</b>
Houlton Superior Court	4	2	2	8
Caribou Superior Court	10	11	11	31
Caribou District Court	5	7	5	17
Houlton District Court	3	6	7	16
Madawaska District Court	0	0	0	0
Fort Kent District Court	3	4	7	14
Presque Isle District Court	7	6	6	19
<b>Region 8 Subtotal</b>	<b>32</b>	<b>36</b>	<b>37</b>	<b>105</b>

### **HUD COUNSELORS' EXPERIENCES**

Several HUD-certified counselor taking referrals from the Bureau's intake and outreach program reported on their recent experiences with the loan modification application process. One counselor provided the following information:

“As the foreclosure and housing crisis has worsened, housing counselors have played an important role in making sure homeowners don't fall through the cracks. Large servicers commonly make mistakes when considering applications for loss mitigation options. We have helped consumers obtain modifications after they were initially told they did not qualify. For those who are truly unable to afford the mortgage, taxes, insurance and upkeep on the home, we do not see our job as keeping the homeowner in the home at all costs. Such an approach would



be irresponsible. Rather, if they can't afford the home, then they can't afford the home, and our job is to help them and their families make a peaceful, orderly exit from their home. Primarily, we are here for those cases in which the homeowner's budget and debt-to-income ratio analysis indicates they can, either at their regular payment if they have gone through a temporary income setback, or through a lower modified payment if they will be subject to an extended period of reduced income.

“Housing counselors do their best to make sure homeowners' voices are heard, and that the consumers are not foreclosed upon unnecessarily. This result not only benefits the homeowner(s) and investor, but also our communities by stabilizing property values, creating financially healthy families that make good citizens, and enhancing the economic benefits homeownership provides to community members and small businesses who benefit directly or indirectly by them.”

Another counselor noted:

“The three active foreclosure counselors in our office are seeing at least 15 new clients each week. Many of them come to us through the Bureau's direct and indirect efforts. Word of mouth also seems to be a major driver in new referrals, as many clients whom we have assisted in the past have shared their experiences with their friends and family members who are in similar situations. In addition to cases coming from the bureau's Foreclosure Diversion Program, we also see a substantial number of referrals from our Congressional offices. Our counselors currently facilitate monthly information sessions for distressed homeowners in Wiscasset (Lincoln and Sagadahoc), Rockland (Knox and Waldo), and Portland (Cumberland) counties. We take on many clients as the result of these sessions – all of whom are in the advanced stages of the foreclosure process. In addition to organizing and presenting at these sessions, several counselors also routinely attend Judicial Branch mediation sessions with homeowners in cases in which clients were unable to afford or receive timely legal representation.”

Reported a third counselor:

“While it seems many of the predatory mortgage loans that were so rampant at the onset of this crisis have run their course, current cases are almost more problematic. The current economic climate is the most prevalent cause of the clients and cases we now see. Job loss and income reduction are certainly a factor in these cases, but in years past many Maine homeowners have had sufficient resources (family, savings, etc.) to weather some of these down cycles.

“However, the length of the current recession has stripped away most of these resources, and many people's family members who formerly provided support find themselves in the same situation. Many Mainers, especially in rural areas, are self-employed and have been hit especially hard in the slow economy as well. Those Maine homeowners who are wage-earners have seen their disposable income reduced in many cases and, as a result, many self-employed people have seen their incomes bearing the direct brunt of this reduction. Also troubling are those homeowners who have been relying on long-term unemployment benefits, which after several years have run their course such that the consumers are facing imminent or active default and have no income with which to negotiate for a loan modification.

“Additionally, there are still a great many homeowners who may have been marginally able to sustain homeownership when they obtained loan or refinance products in years past or

who had been consistently using their homes to access equity which is no longer there. These Mainers who have been treading water as long as possible now find that the continuing struggle of maintaining the home is too much to take on alone without assistance.”

A fourth counselor added the following thoughts:

“In speaking with other housing advocates and counselors around the country, I find that Maine is recognized in many circles as one of the most progressive and successful of all states in providing foreclosure assistance to its residents. In the last 2 years our community action agency has been able to successfully assist between 65% and 70% of our active clients to deal with their housing challenges. These remedies include loan modification, but also short sales, reinstatements, and deeds-in-lieu-of-foreclosure as well. While our counselors deserve a great deal of credit for these results, the environment fostered by Maine’s combination of judicial foreclosure and the Bureau of Consumer Credit Protection’s referral system are directly responsible for this success because they allow consumers adequate time and support to put themselves in the best position possible when dealing with the potential loss of their family homes.”

## **PROGRAM RESULTS**

The Bureau made 250 direct referrals to counselors resulting from calls to the agency’s homeowner hotline in the third quarter of 2012. Counselors under contract to the Bureau reported an additional 242 homeowners contacted them directly as a result of the Bureau’s mailings and other referrals. The counselors obtained results during the quarter that allowed 144 families to remain in their homes. By category, the following results were reported:

Obtained loan modification:	101 households
Brought mortgages current:	21 households
Received forbearance/repayment plan:	17 households
Obtained refinance/reverse mortgage:	5 households

Counselors also helped 3 homeowners sell their homes, 8 homeowners sell their properties by short sale once lender permission was obtained, and 2 families obtain relief through deeds-in-lieu of foreclosure. At the end of the third quarter, counselors had more than 1,000 open cases in various stages of negotiation seeking a variety of outcomes.

## **NEWS AND TRENDS**

The end of the current high levels of default is not yet in sight. Zillow, an online real estate database that offers real estate market information, reports that home values nationwide have dropped 21% since April of 2007. Rental volume is reported to be increasing. Zillow reported that home prices in the Boston market went down 1% in the third quarter, bucking an upturn in the housing market nationwide.

Joe Smith, the Monitor designated to oversee the multistate Attorneys Generals’ settlement with the “Big Five” servicer, Bank of America, Wells Fargo, Chase, Citibank and



GMAC, issued his first report earlier this month, including a breakdown by state of relief afforded to homeowners. The servicers reported a total of \$24,736,779.00 in relief provided to Maine homeowners. Of the total, \$11,918,113.00 was forgiveness of debts after short sales. In other words, the property was sold for near the current market price, and the difference between that recovery and the mortgage debt was forgiven. Another \$7,960,876.00 was attributed to extinguishment of second mortgages, meaning the servicers wrote off debt in excess of the values of the properties. \$1,586,985.00 was attributed to forgiveness of deficiencies after completed foreclosures and sale. An additional \$1,577,591.00 was reported as direct benefits resulting from loan modifications.

The Bureau continues to receive complaints from homeowners and counselors about problems with the loan modification process which are of a nature directly addressed by the terms of the multistate settlement and resulting rules. Maine's counselors report experiencing the same circumstances, but they are able to assist consumers to negotiate with servicers by leveraging the standards set forth in the settlement and rules. In this way, the Bureau hotline and the contract counselor network represent a final pre-foreclosure lifeline for Maine residents facing the loss of their homes.