

MAINE STATE LEGISLATURE

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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

MEMORANDUM

**TO: Joint Standing Committee on Insurance and Financial Services
Joint Standing Committee on the Judiciary**

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

RE: Foreclosure Assistance and Referral Program - 15th Periodic Report

DATE: November 21, 2013

Summary

Activity levels for the staff of the Bureau of Consumer Credit Protection assigned to the Foreclosure Assistance and Referral Program, as well as the caseloads of the housing counselors under contract with the state, remain at high levels. The rate of default by homeowners, as measured by the numbers of “Notices of Default and Intent to Accelerate Debt” received by Maine homeowners, has stayed near historic highs, and the total numbers of such notices mailed to Mainers in 2013 will exceed the number sent in any prior year.

What is the Foreclosure Assistance and Referral program?

The foreclosure assistance and referral program was established in 2009 when the Legislature enacted 14 M.R.S. §§ 6111, 6112. The law requires that lenders notify the Bureau of Consumer Credit Protection when sending out “Notice of Default and Right to Cure” letters to begin the foreclosure process on residential mortgages. The lenders must provide the Bureau of the names and addresses of the affected homeowners.

Upon receipt of that data, the Bureau sends a package of information to the homeowners advising them of their rights and available resources, such as the availability of HUD-certified counselors through the bureau’s foreclosure prevention hotline (1-888-NO-4-CLÖZ or 1-888-664-2569), or mediation available during any subsequent court foreclosure process. The Bureau receives calls each day on the foreclosure hotline, counsels consumers and obtains preliminary information, intervenes in emergency cases, and refers other cases to HUD-certified counselors under contract with the Bureau. The counselors provide free assistance to those consumers, ranging from help in applying for loan modifications to advice regarding short sales and deeds in lieu of foreclosure.



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How many informational packets are sent each month to Maine homeowners?

Since the program began in 2009, an average of 3,180 informational packages have been sent to Maine homeowners each month. However, the high rate of default occurring in 2013 is reflected in the fact that during July, August and September an average of 4,072 packages were mailed each month.

This year is on track to be the busiest on record for pre-foreclosure default notices, with more than 34,000 notifications already received through the end of September and approximately 10,000 expected in the last quarter, for a total which will exceed 44,000 filings. The previous high level was 41,462 notifications, in 2011.

Distribution of pre-foreclosure filings among Maine counties during July, August and September remained proportionally the same as in prior years. Totals by county are shown below:

County	Jul-13	Aug-13	Sep-13
Androscoggin	380	403	372
Aroostook	154	151	146
Cumberland	780	720	656
Franklin	90	108	93
Hancock	138	100	94
Kennebec	359	424	385
Knox	124	181	146
Lincoln	140	105	110
Oxford	228	217	206
Penobscot	509	418	430
Piscataquis	65	59	79
Sagadahoc	154	173	140
Somerset	182	153	122
Waldo	128	125	116
Washington	75	108	75
York	775	682	638
Total:	4,281	4,127	3,808

Total for quarter = 12,216

Pre-foreclosure filing distribution by lender type has also remained relatively steady compared to prior quarters. As reflected below, an analysis of August and September’s numbers reveals that Maine’s state-chartered banks and credit unions accounted for less than 10% of all pre-foreclosure filings. Further refining the information illustrates that state-chartered credit unions are the moving party on fewer than 1% of such filings; each month state-chartered credit unions in Maine send an average of 35 pre-foreclosure notices to Maine residents.

DEFAULT NOTICES SENT TO MAINE CONSUMERS – BY LENDER TYPE	<u>August 2013</u>	<u>September 2013</u>
Federally-Chartered Banks	1,695	1,681
Non-bank Mortgage Companies	1,114	828
Securitized Pools	644	756
State-Chartered Banks	386	271
Federally-Chartered Credit Unions	121	138
Private Mortgage Lenders	142	103
State-Chartered Credit Unions	25	31
Totals	4,127	3,808

How many homeowner referrals were made by the program this quarter?

The Bureau referred 249 homeowners to housing counselors in the 3rd quarter of 2013. Written reports from the housing counselors indicated they took on an additional 195 cases resulting from 1) homeowners who received information from the Bureau and called the counselors directly; or 2) referrals from other municipal, state or federal offices and non-profit agencies.

What results were obtained by the program in the 3rd quarter of 2013?

The following chart shows the results obtained for homeowners by the counselors under contract with the Bureau. Of particular note is the figure of 120 loan modifications obtained. This is a significant increase over the previous two quarters of the year (87 modifications obtained in the 1st quarter, and 96 in the 2nd quarter). Staff believes this increase reflects 1) a realization by lenders that a well-planned loan modification benefits both the lender and the homeowner; and 2) improved training of lenders' loan modification staffs. Also worthy of note is that in total, counselors under contract with the Bureau helped 154 Maine families remain in their homes in the third quarter of 2013.

Description of Activity	July	August	Sept	Total
BCCP referrals for month	96	85	68	249
Self-referrals resulting from Bureau letters or website	47	43	30	120
Other new pre-foreclosure cases	23	24	28	75
Total new for month	166	152	126	444

Cases resolved during month	July	August	Sept.		Total
Brought mortgage current	8	4	4		16
Refinance/reverse mortgage	0	2	4		6
Loan modification received	40	28	52		120
Received 2nd mortgage	1	0	0		1
Forbearance agreem't/repayment plan	3	3	4		10
FHA partial claim	0	1	0		1
Deed accepted in lieu of foreclosure	2	2	3		7
Property sold to pay off mortgage	2	1	3		6
Short sale	2	0	1		3
Property foreclosed upon	4	2	1		7
Counseled & referred to other agency	4	7	9		20
Consumer filed bankruptcy	1	1	2		4
Referred for legal assistance	12	10	9		31
Withdrew from program	44	17	28		89
Total Resolved	123	78	120		321

Attorney General's Foreclosure Working Group convenes

On October 10 in Portland, and again on November 14 in Augusta, the Attorney General's Foreclosure Working Group convened for three hours each afternoon to discuss and debate measures to improve the functioning of the pre-foreclosure process, civil foreclosure proceedings and the mediation program operated by the Judicial Branch.

The group, moderated by Attorney General Janet Mills and Assistant Attorney General Brendan O'Neil, includes representatives of large lenders such as Bank of America, Wells Fargo and Chase, as well as lenders' lawyers, consumer defense lawyers, representatives of the Judicial mediation program, real estate professionals, municipal officials and representatives of the Bureau of Consumer Credit Protection.

Lenders' attorneys believe the litigation process takes too much time, especially the courts' deliberations on Motions for Summary Judgment. Consumer advocates argue that some lenders are not complying with the loan modification review requirements of several multi-state settlements. Each meeting has been substantive, and the group's members continue to communicate with the goal of developing legislation for consideration during the upcoming Second Regular Session of the Legislature.

Funding challenges facing the Bureau's program

In the past three years, the transfer tax income used to operate the Bureau's foreclosure counseling and referral program has been regularly supplemented with funds from national settlements with large mortgage lenders, as the result of litigation by state regulatory groups or Maine's Attorney General. No large settlements have occurred in recent months, so the Bureau has reduced its budget allocations for the program starting in 2014.

The Bureau has done what it can to prepare the counselors for this reduction; in fact, the last time the twelve contracts with non-profit housing counselors were renewed they were limited to 9-month terms rather than for a year, because the Bureau could not accurately and reliably predict future revenue.

In early November, continuing the Bureau's effort at transparency on issues affecting the counselors and their contracts, each counselor or agency was sent a letter explaining what steps the Bureau was taking to cushion the impact of the projected reductions.

We are working to structure a support system for homeowners even in times of reduced contracts. For example, a Portland-area non-profit organization, AVESTA, recently hired a trained housing counselor, and one of the organization's principals has offered the services of that counselor to the Bureau's referral program without charge.

Maine foreclosure activity may buck the national trend?

In its "September Foreclosure Report" released on October 10, RealtyTrac, a national real estate data reporting firm, revealed that nationally, the level of foreclosure activity in September 2013 was down 27% compared to September of 2012. Likewise, CoreLogic, a national residential property information provider, reported in its September foreclosure report that lenders completed 51,000 foreclosures in the U.S. during September 2013, down from 84,000 in September 2012.

However, the Bureau's pre-foreclosure reporting numbers suggest the opposite trend in Maine, with a 21% increase in filings with the Bureau of "notices of default and intent to accelerate" compared to the rate experienced last year. Staff surmises that as foreclosure activity has dropped across the U.S., lenders have used freed-up resources to pursue backlogs of foreclosures in states such as Maine.

Other national figures and Maine comparisons

The CoreLogic report further indicated that as of September 2013, approximately 902,000 homes in the U.S. were in some stage of foreclosure – known as the "foreclosure inventory" – compared to 1.4 million in September 2012. The foreclosure inventory as of September 2013 represented 2.3 percent of all homes with a mortgage, compared to 3.2 percent in September 2012.

Maine is included among five states with the highest foreclosure inventory as a percentage of all mortgaged homes. Those states are: Florida (7.4 percent), New Jersey (6.5 percent), New York (4.8 percent), Maine (4.0 percent) and Connecticut (3.7 percent).

The Mortgage Bankers Association’s “National Delinquency Survey Q3 2013” reports that Maine’s foreclosure starts rose 11% from Q2 2013 to Q3 2013, which is consistent with the Bureau’s observed trends through default notice tracking. The same report indicates that Maine had the 7th highest rate of foreclosure starts in the country in the third quarter of 2013, and that 5.44 percent of all mortgage loans in Maine were in foreclosure in that quarter.

The following chart shows foreclosure filings in Maine for each of the first three quarters of 2013. While the number of cases filed in court for the third quarter varies somewhat from the figures provided by the Mortgage Bankers Association, differing methodology may explain the divergence: MBA’s figures are based on “...loans placed in the process of foreclosure, deeds in lieu of foreclosure and loans assigned to FHA, VA, other insurers and investors”. This represents more than just cases filed in court, and would more accurately reflect the increased numbers of default filings being received by the Bureau.

Region/Court	1st Qtr	2nd Qtr	3rd Qtr	CY 2013
	Jan- Mar 2013	Apr- Jun 2013	Jul-Sep 2013	TOTAL
STATEWIDE TOTAL	1101	1211	1080	3392
Alfred Superior Court	40	39	26	105
York District Court	31	28	17	76
Biddeford District Court	44	47	64	155
Springvale District Court	66	91	71	228
Region 1 Subtotal	181	205	178	564
Portland Superior Court	46	50	42	138
Bridgton District Court	62	42	51	155
Portland District Court	111	94	88	293
Region 2 Subtotal	219	186	181	586
South Paris Superior Court	15	16	18	49
Auburn Superior Court	43	43	39	125
Farmington Superior Court	8	6	9	23
Lewiston District Court	67	65	71	203
Farmington District Court	12	25	16	53
Rumford District Court	19	19	19	57
Livermore Falls District Court	0	0	0	0
South Paris District Court	17	19	21	57
Region 3 Subtotal	181	193	193	567
Skowhegan Superior Court	9	10	9	28
Augusta Superior Court	22	15	11	48
Skowhegan District Court	36	38	39	113
Waterville District Court	24	39	38	101
Augusta District Court	34	62	41	137
Region 4 Subtotal	125	164	138	427

Region/Court	1 st Qtr	2 nd Qtr	3 rd Qtr	CY2013
	Jan- Mar 2013	Apr- Jun 2013	Jul-Sep 2013	TOTAL
Dover Foxcroft Superior Court	2	1	4	7
Bangor Superior Court	33	47	24	104
Millinocket District Court	0	0	0	0
Dover Foxcroft District Court	15	18	10	43
Lincoln District Court	23	21	22	66
Newport District Court	27	27	36	90
Bangor District Court	54	61	72	187
Region 5 Subtotal	154	175	168	497
Wiscasset Superior Court	11	9	10	30
Bath Superior Court	6	8	2	16
Rockland Superior Court	8	10	6	24
Belfast Superior Court	8	11	3	22
Belfast District Court	23	38	32	93
Wiscasset District Court	23	31	9	63
West Bath District Court	35	35	35	105
Rockland District Court	15	14	28	57
Region 6 Subtotal	129	156	125	410
Machias Superior Court	7	6	4	17
Ellsworth Superior Court	7	18	7	32
Bar Harbor District Court	0	0	0	0
Machias District Court	8	16	11	35
Calais District Court	10	13	10	33
Ellsworth District Court	37	28	21	86
Region 7 Subtotal	69	81	53	203
Houlton Superior Court	0	3	7	10
Caribou Superior Court	11	28	20	59
Caribou District Court	8	3	1	12
Houlton District Court	10	9	6	25
Madawaska District Court	0	0	0	0
Fort Kent District Court	7	4	2	13
Presque Isle District Court	7	4	8	19
Region 8 Subtotal	43	51	44	138

Conclusion

1) The involvement of housing counselors continues to provide positive results for Maine homeowners in default. As indicated by the outcomes listed in this report, their jobs go beyond simply advocating for loan modifications. Rather, they are trained in alternative resolutions, and homeowners with their guidance obtain assistance with home sales, deeds in lieu of foreclosure and refinancing loans.

2) The Bureau will adjust to resources available to fund the program, reducing its scope and size as revenues decrease. Continuing results will be obtained as privately-funded counselors take on a portion of the overall caseload, as other organizations step up to assist, or as alternate sources of funding (*e.g.*, national settlements) become available.

3) Maine appears to be a year or two away from the reductions in foreclosure case volumes that are being experienced in more populated states of the country, so the Bureau's challenge will be to meet the need as long as possible, with the continued support of lawmakers, the Administration and the Attorney General's office.