

# 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

JOHN ELIAS BALDACCI  
GOVERNOR

WILLIAM N. LUND  
SUPERINTENDENT

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

**Date:** November 18, 2010

### Introduction

In 2009, the 124<sup>th</sup> Legislature enacted a comprehensive set of laws directing the Bureau of Consumer Credit Protection to administer the State's foreclosure prevention program (see PL 2009, Ch. 402, *An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures*). In the 18 months since the laws took effect, the Bureau has mailed information packets to tens of thousands of Maine homeowners who were in default on their mortgages. The agency has also entered into thirteen contracts with nonprofit agencies to provide counselors throughout the State who agreed to accept direct referrals from Bureau staff, assist consumers in assessing their financial situations, and negotiate with mortgage lenders and servicers for loan modifications. Additionally during the past 18 months, the Bureau has established and staffed a toll-free hotline, referring appropriate cases to non-profit counselors while responding immediately to cases in which time was of the essence or in which a law violation was alleged. Finally, the agency has intervened directly in more than 100 cases to ensure that consumers' legal rights were preserved in loan modification, short sale, foreclosure or auction processes.

The new laws established a mechanism whereby lenders who accept "deeds in lieu of foreclosure" or who foreclose on Maine consumers and who hold public auctions of the consumers' homes, pay at least a portion of the real estate transfer tax owed in conventional residential transactions into a dedicated, non-lapsing fund to provide the means to make grants and reimburse expenses incurred by the Bureau in meeting its obligations under the law. The Bureau is required to report to the Legislature on revenues received by the fund and expenditures made from the fund. On January 28, 2010 the Bureau submitted its first report on the foreclosure prevention ("Statewide Outreach") account. This is the second such report.

### **Responsibilities under the law**

PL 2009, Ch. 402 requires that the Statewide Outreach fund be used to provide resources to permit the Bureau to carry out a specific list of duties set forth in 14 MRS sec. 6112 and sec. 6111 (3-A, 4-A), including:

1. Hotline. Establishment and staffing of a statewide hotline to permit intake of cases by the Bureau and referrals of appropriate cases to HUD-approved housing counselors to develop options to avoid foreclosure;
  
2. Outreach; housing counseling services. An outreach program, consisting primarily of entering into contracts with nonprofit organizations around the State that provide housing counseling services and mortgage assistance;
  
3. Form. Development of a one-page form, reviewed and approved by the Supreme Judicial Court, for use by homeowners in answering a foreclosure complaint and for making a request for mediation, and
  
4. Information packages to consumer in default. Receiving information electronically each day from lenders consisting of the names and addresses of consumers in default on their mortgages, and the mailing of informational packages to the consumers providing a summary of the consumer's rights, a list of resources available to the consumer, and a description of the State's foreclosure mediation program.

### **Revenue and expenditures**

Pursuant to statute, this report must detail “the expenditures made to carry out the purposes of the law, any financial orders submitted by the Bureau and any updated assumptions related to the Bureau's revenues and expenditures.”

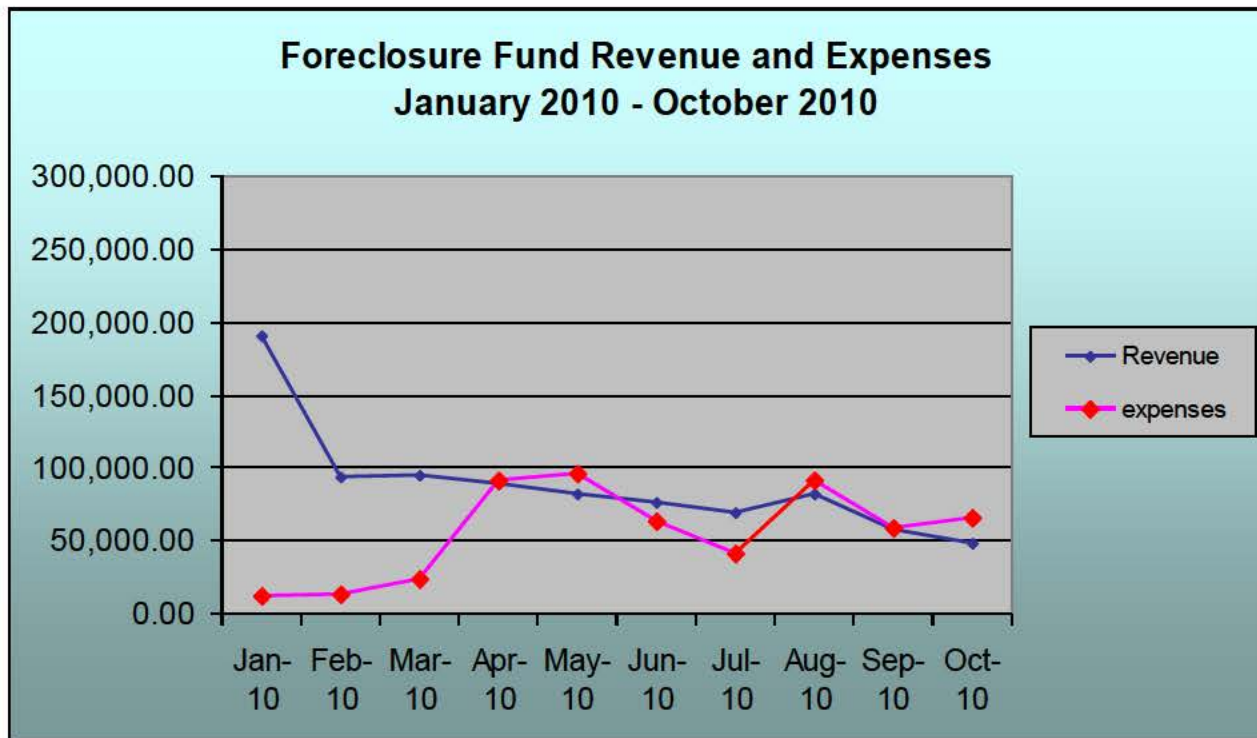
The Bureau has entered into the following contracts with non-profit housing counseling agencies to provide foreclosure prevention services to Maine homeowners:

<b>Name and Address of Agency</b>	<b>Contract Term</b>	<b>Amount</b>
Aroostook County Action Program PO Box 1116 Presque Isle, ME 04769	3/1/2010 - 3/1/2011	\$61,960
Coastal Enterprises, Inc 36 Water Street Wiscasset, ME 04578 (3 contracts)	1/2/2010 - 1/2/2011 1/29/2010 - 1/29/2011 9/7/2010 - 9/6/2011	\$74,877 \$65,376 \$70,971
Community Concepts, Inc 19 Market Square South Paris, ME 04281	1/2/2010 - 1/2/2011	\$75,000

*(List of contracts continued on next page)*

Kennebec Valley Community Action Program 97 Water Street Waterville, ME 04901	1/11/2010 - 1/11/2011	\$61,350
Penquis CAP 262 Harlow Street Bangor, ME 04402 (2 contracts)	1/2/2010 - 1/2/2011 11/2010 - 2/2011	\$33,660 \$20,000
Pine Tree Legal 88 Federal Street Portland, ME 04112	1/5/2010 - 1/5/2011	\$75,000
Sustainable Economic Solutions 43 Marina Road Yarmouth, ME 04096	2/8/2010 - 2/7/2011	\$65,000
Washington Hancock Community Action 2 Maple Street Milbridge, ME 04658	6/7/10 - 6/7/10	\$15,000
York County Community Action Program 6 Spruce Street Sanford, ME 04073 (2 contracts)	1/2/2010 - 1/2/2011 2/1/2010 - 1/31/2011	\$65,105 \$65,105
<b>TOTAL</b>		<b>\$728,424</b>

**Chart: Bureau Program Revenues and Expenditures from January, 2010 to date**



MONTH	REVENUES	EXPENSES
Jan-10	190,282.40	11,328.08
Feb-10	92,820.00	13,130.04
Mar-10	95,117.22	23,649.97
Apr-10	89,087.13	91,520.33
May-10	81,357.21	96,034.10
Jun-10	75,501.36	63,469.48
Jul-10	68,338.71	40,486.83
Aug-10	81,471.06	91,501.28
Sep-10	57,722.94	58,643.53
Oct-10	48,431.79	65,750.00

### Discussion

Revenues started the year high, possibly because lenders had rushed to complete foreclosures in calendar year 2009 before they were subject to the mandatory mediation programs established by state law. Revenue stabilized but decreased slightly during the course of calendar year 2010. Revenue hit a low in October 2010, and when figures from November 2010 are released those numbers will likely be lower still, perhaps of the impact of the self-imposed “moratoria” announced by several major lenders following discovery of widespread defects in affidavits those lenders were filing in support of court pleadings.

Expenses include direct costs to the Bureau, as well as quarterly payments to non-profit counselors around the State with whom the Bureau has contracts (currently 13 contracts to 9 different agencies), and training costs for those counselors. Approximate expenses during this time include quarterly portions of housing counselor contracts paid to date (\$396,113.22); Bureau staff personal services (\$75,853.84); temporary support staff for program start-up (\$18,692.10); postage to mail informational packets (\$31,025.61); state service center charges (\$4,964); printing and binding of consumer packets (\$8,334.06); general fund STACAP (\$5,555); photocopying (\$207); office supplies and equipment, including envelopes, glue sticks, paper and other supplies (\$2,472.20); training and travel for Bureau staff, Maine Housing Counseling Network, and Maine State Housing Authority’s independent housing counselors (\$6,711.19); intra-governmental services (\$4,964); telephone/computer charges (\$1,023); and computers/consumer hotline number/ mortgagee e-mail account costs (\$4,248.70).

We expect revenues to increase gradually starting in December, 2010 as all parties become more accustomed to the mediation program (with cases in which consumers cannot afford homes being resolved with consensual deeds in lieu of foreclosure and “keys for cash”), and to increase to approximately \$125,000 per month through much of 2011, maintaining that level for 24 months but not approaching the rate of receipts from deeds in lieu and foreclosure auction sales from early 2010. At some point (estimated June 2013) we anticipate that the existing stock of at-risk homes will begin to decline, and

a lower incidence of foreclosure auction sales -- as well as a correspondingly-lower recovery of taxes from this source -- will occur.

We are forecasting revenues of \$50,000 per month 2013 and 2014, although it is very difficult to predict the future with respect to trends that will vary depending on the success of the foreclosure diversion effort, as well as on employment rates, home valuations and other complex economic conditions. The Bureau is currently maintaining an unencumbered balance of \$414,688, which should provide sufficient stability to permit continuation of current contracts with non-profits when those contracts expire. Whether the number of contracts can be expanded will be dictated by fund receipts in 2011.

Overall, the Bureau's goals include maximizing funds directed to non-profit housing counselors for one-on-one foreclosure prevention assistance, while monitoring the performance of those counselors to ensure efficient, productive use of the funds; covering the Bureau's direct costs of operating the program; and maintaining a sufficient balance in the account to absorb unpredictable decreases in the tax revenues that provide funding for the program. The need for such flexibility became clear in September and October of this year when several of the largest out-of-state, non-bank mortgage companies announced temporary moratoria on auction sales until company lawyers had time to review affidavits filed with Maine courts in support of foreclosure actions. The slowdown in auctions relating to this so-called "robo-signing" scandal resulted in revenues of only \$57,722.94 for September and \$48,431.79 for October, a 76% drop from the highest-generating months in late 2009.

In addition, the greater the success of the foreclosure diversion program, the fewer foreclosure auctions will be held and the greater the reduction in revenues generated from that source. By most accounts homeowners will continue to require assistance with high levels of mortgage defaults and foreclosures through 2011 and 2012; therefore, we must ensure that the State program is available to provide regulatory screening from the Bureau, as well as housing counseling assistance from non-profit agencies and legal defenses in appropriate cases, through that time period and beyond.

### **Recent Financial Order Requested**

On September 24, 2010, the Bureau requested a financial order in the amount of \$20,000 (FO# 006414F1) to be used to fund additional foreclosure prevention and financial counseling services by Penquis Community Action, of Bangor, permitting Penquis to hire additional staff through the end of 2010. Penquis had reached its contracted capacity and would not have been able to assist any additional Maine consumers without increasing its staff.

Penquis has been employing only one part-time housing counselor, and the non-profit agency is carrying a current foreclosure prevention caseload in excess of the numbers anticipated in the Bureau's original contract. Because of the increasing demand from financially-distressed homeowners in need of housing counseling services, especially in the Bangor area, the Bureau requested additional monies to provide

Penquis \$20,000 in funding to pay for additional housing assistance resources through the end of 2010 and into the first two months of 2011. That request was granted.

### **Conclusion**

The Bureau thanks the Legislature for its continued support of the program, and for the steady flow of referrals on behalf of constituent homeowners facing foreclosure. Our staff will work to ensure that the foreclosure prevention fund remains financially sound for as long as those resources are needed to assist Maine homeowners.