

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
Joint Standing Committee on Appropriations

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

RE: Foreclosure Assistance and Referral Program - 16th Periodic Report

DATE: February 12, 2014

Summary

This 16th periodic report covers October 1, 2013 through December 31, 2013, and also provides selected information compiled from the full calendar year 2013. It includes financial information on the Bureau's foreclosure assistance and referral program.

Call volume to the Bureau's foreclosure assistance hotline, and the number of referrals from Bureau staff to housing counselors under contract with the State, were down slightly (16%) in the final quarter of 2013, compared to the prior quarter. Whether this signals a trend is difficult to discern. In each of the past three years, calls to the hotline have decreased during the late fall and early winter into December and year-end holiday period. The next quarterly report, due in late April, may reveal whether this reduction is part of a long-term pattern, or merely reflects seasonal variations.

The rate of mortgage default (non-payment) by homeowners in Maine remains high. The Bureau mailed more than 3,000 informational packages on average each month during October – December, 2013, a rate that nonetheless did not match the highest-volume month in 2013, when more than 4,000 such packages were mailed during July. Total mailings to homeowners in default on their mortgages in 2013 exceeded 41,400, the highest of any of the three years of the Bureau's program. Based on the best available estimates, Bureau staff predicts the number will decline to about 35,000 in 2014.

Headlines in national media in January, 2014 trumpeted: "Home Foreclosures [in 2013] Fall to Lowest Level since 2007." However, page 2 of the *RealtyTrac* report on which much of that press coverage was based, contained a chart titled "Bucking the Foreclosure Trend in 2013."



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At the top of that national chart was the State of Maine, revealing that foreclosure activity in Maine in 2013 increased more than 120% compared to 2012. More than twice as many Maine homes were subject to civil foreclosure actions last year than the year before.

The Attorney General's office announced in January that it would utilize resources from a recovery fund to cover the costs of housing counselor contracts for the upcoming period April 1, 2014 – June 30, 2014, permitting the State's counseling/referral program to continue operating during that time. The Bureau's budget for FY '15 (beginning July 1, 2014) calls for counselor contracts to be funded at an annual level of \$558,000, a reduction from the \$680,000 expended on those contracts in FY '14 and the \$905,000 in contract funds spent in FY '13.

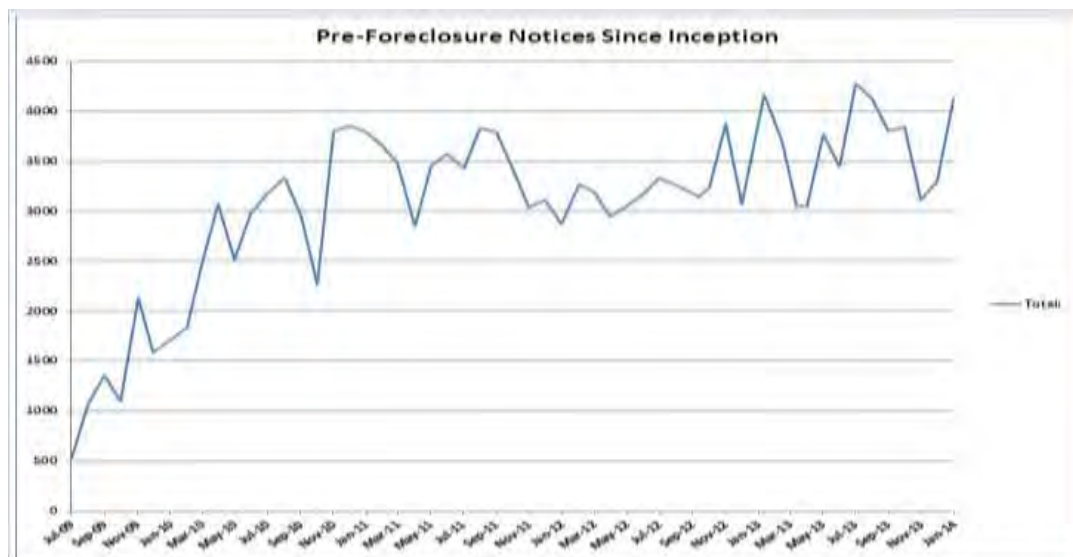
Counselors under contract with the Bureau continued to accept many cases and produce good results in 2013. The Bureau forwarded cases involving more than 1,000 Maine households last year. About 500 other homeowners self-referred directly to counselors after receiving written information from the Bureau describing the assistance program. Additional cases came to the counselors through Congressional offices, municipalities and other sources. In all, Maine housing counselors accepted approximately 2,000 new foreclosure cases during the year.

Of cases brought to resolution last year, counselors obtained 437 loan modifications, 40 forbearance plans and 28 deeds-in-lieu of foreclosure. They assisted consumers in selling 24 properties, and arranged 38 "short sales." In total, counselors helped Maine families obtain resolutions in 1,363 cases.

The program's counselors are currently carrying an unresolved caseload consisting of 2,000 Maine households.

I. Details of Bureau Activity

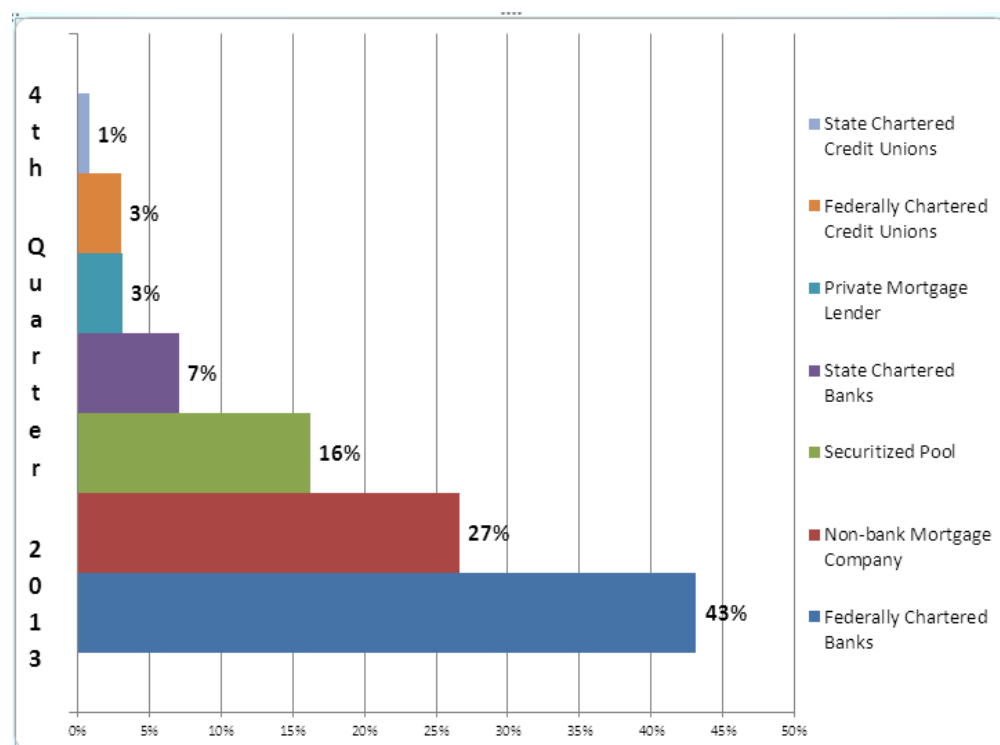
Each day, the Bureau sends informational packets to Maine homeowners who are in default on their mortgages. Lenders provide the names and addresses of consumers to whom those lenders have sent a "notice of right to cure default," the final step before the lender is permitted to accelerate the unpaid balance and declare the entire amount as due and owing. The chart below shows the rate of Bureau mailings each month since the program's inception in mid-2009, and hence the rate of mortgage defaults in Maine during that period:



Overall, 2013 was the most active year on record for pre-foreclosure notices received by the Bureau. Between January 2013 and December 2013, the Bureau received information from lenders indicating the lenders had sent 43,682 default notices to Maine residents. The previous record was in 2011, when Mainers were sent 41,462 default notices. The peak in 2013 occurred during July, when 4,280 filings were received. The three highest-volume months in the history of the program occurred during 2013.

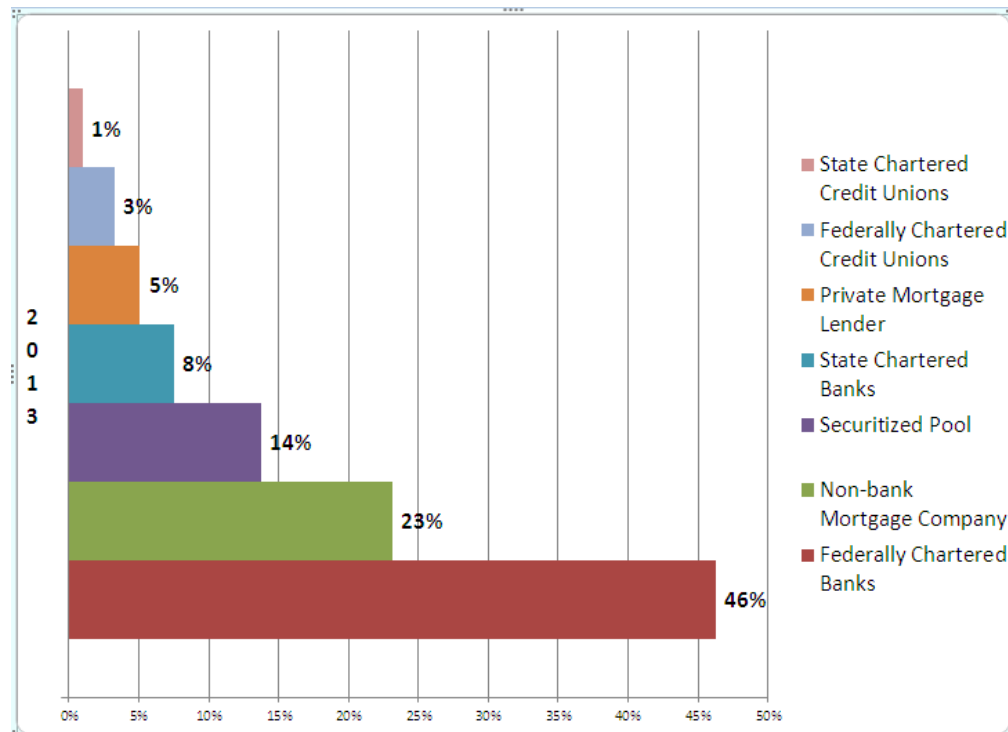
The Bureau keeps track of several factors relating to the notices of default being sent to Maine consumers, including the rates at which different types of lenders (*e.g.*, national banks, state-chartered banks, and credit unions) have sent notices of default to Maine residents. In the fourth quarter of 2013, the following lender/servicer types sent notices to Maine residents at the indicated volume and percentage:

Totals and Percentages of 4th Quarter Default Notices by Lender Type



The percentages represented during the final quarter approximate the same figures determined for the entire calendar year 2013, as illustrated by the chart below showing annual totals:

Totals and Percentages of *Calendar Year 2013* Default Notices by Lender Type



The chart reveals that 46% of all default notices in 2013 were mailed to Maine homeowners by federally-chartered banks, and that another 23% were sent by non-bank mortgage companies. State-chartered banks sent 8% of all pre-foreclosure notices, while state- and federally-chartered credit unions combined for 4% of the annual total.

The Bureau also keeps track of the locations (by county) where default activity is occurring, as shown in the following chart:

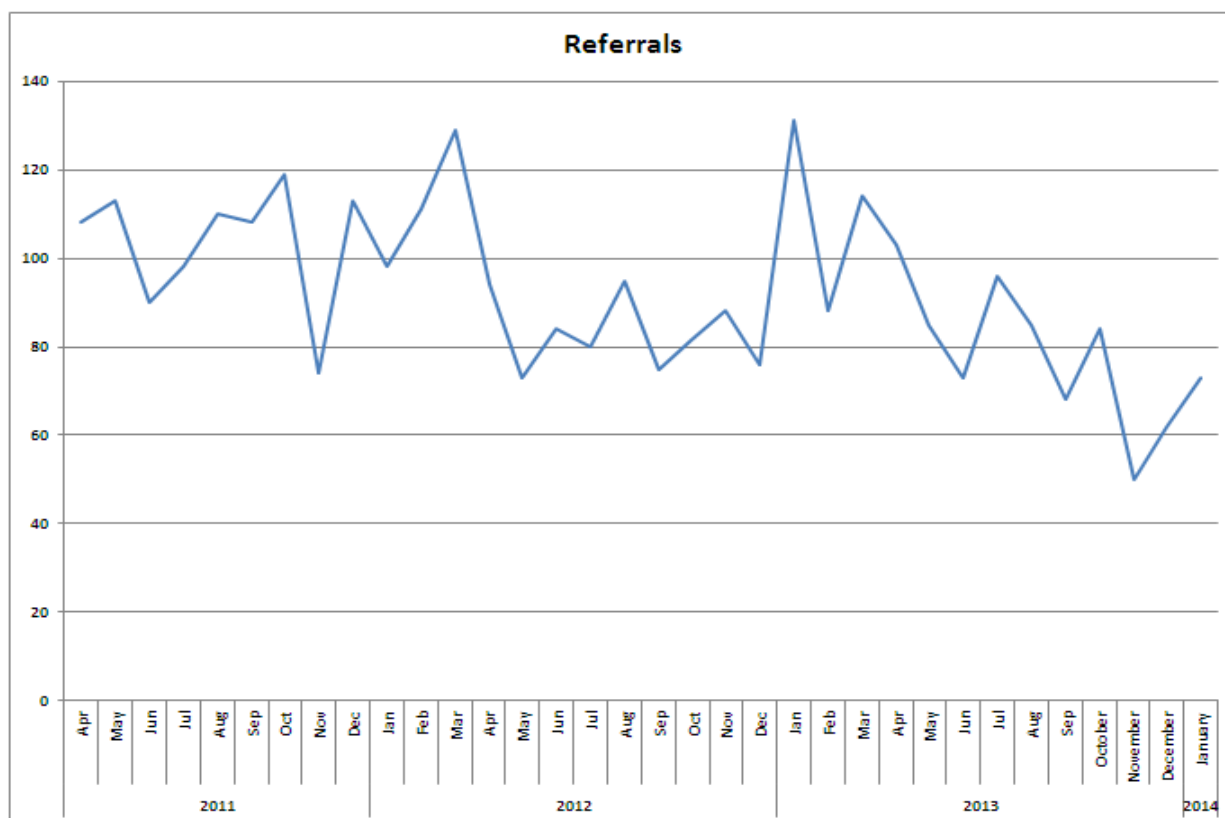
Notices of Default by Maine County for *Calendar Year 2013*

County	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	TOTAL
Androscoggin	320	317	249	225	323	335	380	403	372	273	285	353	3835
Aroostook	156	144	112	98	106	110	154	151	146	150	106	122	1555
Cumberland	738	625	522	545	626	601	779	720	656	744	543	568	7667
Franklin	94	75	67	66	65	72	90	108	93	94	69	80	973
Hancock	118	114	110	84	119	111	138	100	94	94	74	80	1236
Kennebec	472	357	331	302	377	303	359	424	385	435	344	284	4373
Knox	134	108	108	164	142	123	124	181	146	121	78	103	1532
Lincoln	127	113	129	121	126	112	140	105	110	139	111	91	1424
Oxford	183	218	157	145	188	160	228	217	206	168	150	155	2175
Penobscot	501	392	333	318	498	369	509	418	430	393	357	374	4892
Piscataquis	80	51	42	32	57	63	65	59	79	50	40	51	669
Sagadahoc	187	158	132	103	129	121	154	173	140	181	111	112	1701
Somerset	150	140	128	115	160	126	182	153	122	134	125	143	1678
Waldo	129	108	93	105	132	107	128	125	116	103	80	110	1336
Washington	118	124	73	99	90	112	75	108	75	73	88	78	1113
York	659	667	461	532	637	626	775	682	638	696	553	597	7523

As this information makes clear, in 2013 nearly two-thirds of all pre-foreclosure default notices sent to Mainers by lenders related to properties located in Cumberland, York, Penobscot and Kennebec Counties.

With respect to referrals from the Bureau to counselors under contract, that number declined slightly during the calendar year. This result could mean the largest numbers of cases are through the system. It may also mean more consumers are self-referring directly to counselors, or that the less-complex cases have been processed, leaving a smaller number of more complex cases in 2013. The following chart illustrates the rate of new referrals by the Bureau to the network of counselors under contract:

Monthly Bureau referrals to foreclosure counselors, 2011 – 2013



Each month, as a condition of the funding process, counselors under contract with the Bureau report on the results of their work activity from the previous month. As stated in the introductory summary of this report, the results from last year demonstrate the counselors' positive rates of success in resolving cases referred to them. The chart below summarizes the more than 1,300 resolutions reached during 2013, including more than 400 loan modifications as well as forbearance plans, deeds-in-lieu of foreclosure, arranged sales of homes and so-called "short sales," in which lenders permit the sales of a home for less than the outstanding balances on the loans.

Outcomes achieved by Maine foreclosure counselors, 2013

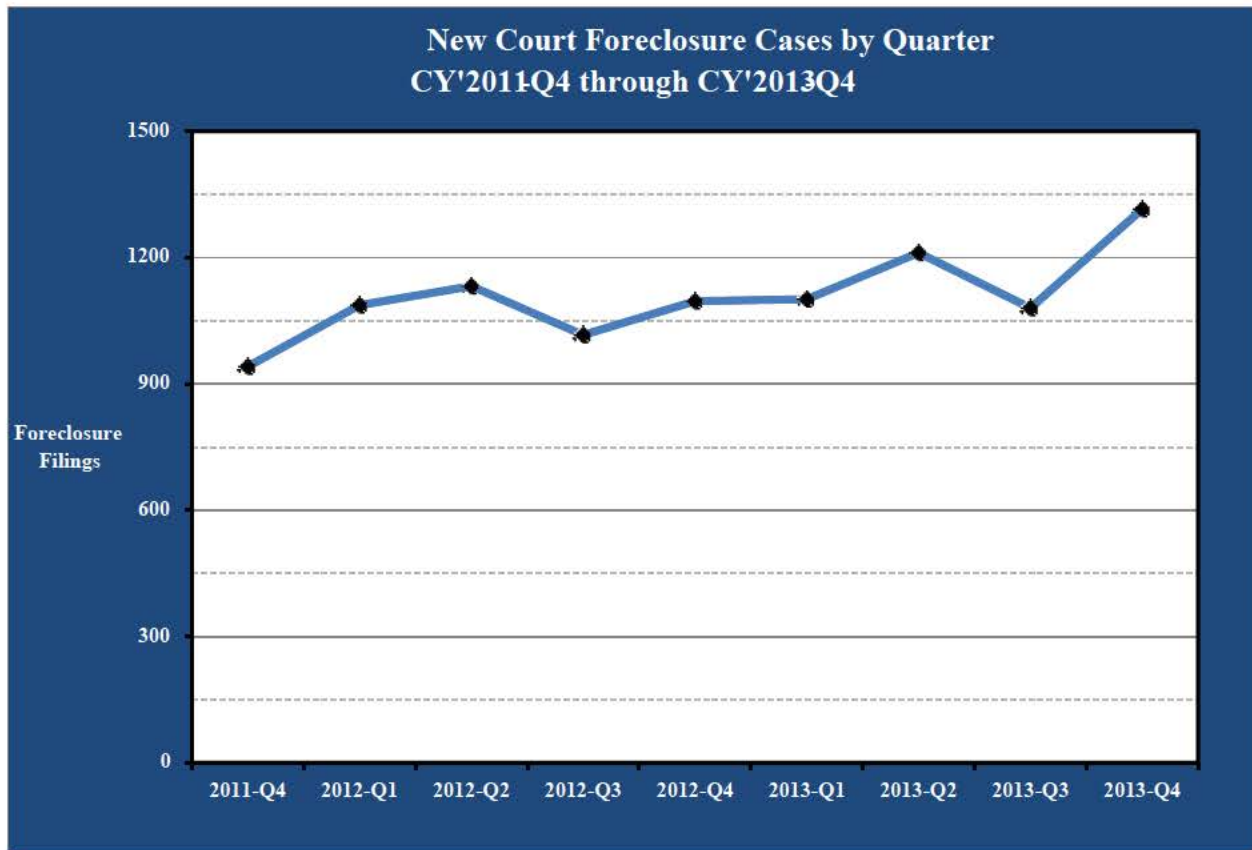
	Q1	Q2	Q3	Q4	Total
Bureau referrals for quarter	316	256	237	200	1009
Self-referrals From Bureau letters or Bureau website	177	128	120	106	531
Other new pre-foreclosure cases	105	101	75	83	364
Total new cases for quarter	597	485	439	389	1910
RESOLUTIONS:					
Brought mortgage payments current	17	24	16	24	81
Refinanced, or got reverse mortgage	4	4	6	6	20
Loan modification received	87	102	120	128	437
Received second mortgage	1	1	1	1	4
Forbearance agreement/repaym't plan	7	9	10	15	41
FHA partial claim obtained	0	0	1	0	1
Deed-in-lieu, transferred to lender	4	5	7	12	28
Property sold to 3 rd party	2	7	6	9	24
Short sale	12	11	3	12	38
Lender completed foreclosure	7	8	7	20	42
Counselled & referred to another ag'cy	13	7	20	20	60
Homeowner filed for bankruptcy	2	2	4	4	12
Referred for legal assistance	28	36	31	24	119
Entered debt management plan	5	2	0	1	8
Voluntarily withdrew from program	107	160	89	100	456
Total resolved	296	372	319	376	1363

At any time, a large number of pending cases are found in the counselor's files. The Bureau obtains information from the counselors as to the status of pending cases, and the reasons for that status. In many cases, counselors and homeowners have developed a plan and have taken steps to implement that plan, but are awaiting decisions by out-of-state lenders and servicers. The following chart reflects the status of pending cases as of December 31, 2013:

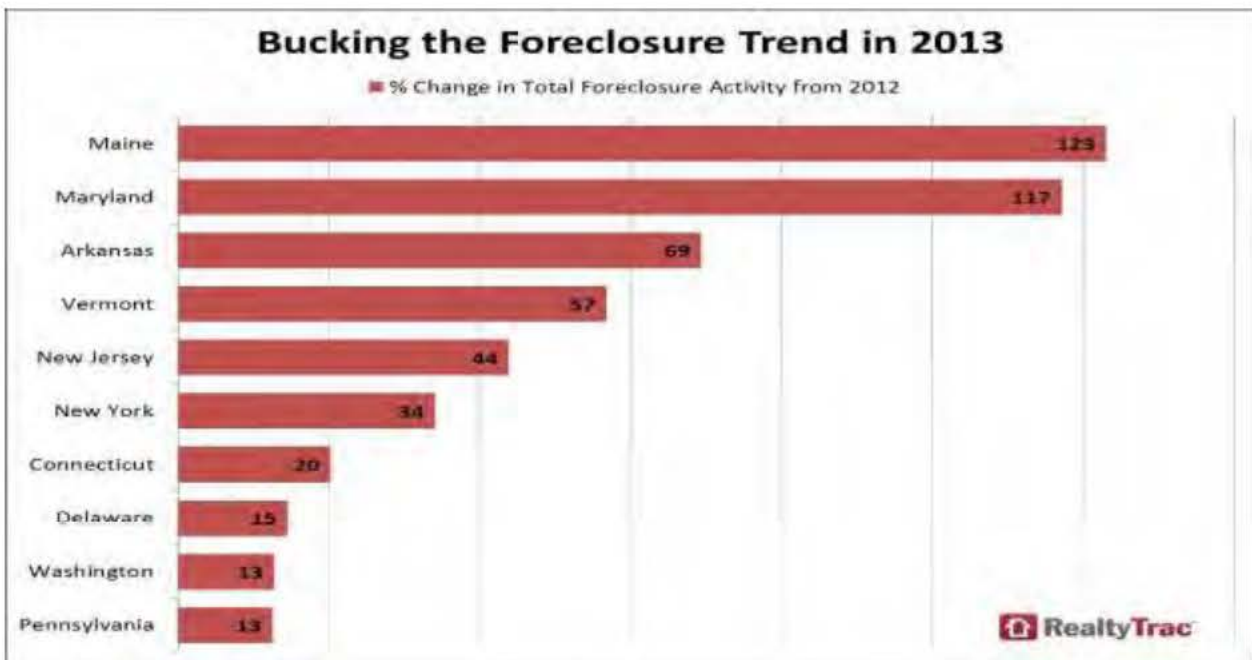
Status Of Unresolved					
Applied for mod/short sale/forb'rance	373	420	512	526	1831
Homeowner compiling financial info	822	906	896	975	3599
Awaiting decision from lender/servicer	442	453	535	509	1939
Mediation pending	327	379	485	449	1640
Sale or short sale pending	66	67	71	58	262
Receiving budget/f'closure counseling	564	556	444	347	1911

FORECLOSURE ACTIVITY IN THE COURTS

Records and data from the Maine Judicial System reflect a discernable increase in foreclosure activity in the fourth quarter of 2013, as shown on the following chart:



As referenced in the summary to this report, the level of court activity in Maine has increased dramatically (more than 120% compared to 2012), while other states' activity has decreased. RealtyTrac, a national housing and foreclosure reporting service, illustrated this result in a chart titled "Bucking the Foreclosure Trend," reprinted below:



Detailed reports on a court-by-court basis for Calendar Year 2013 are shown on the following chart.

**STATE OF MAINE JUDICIAL BRANCH
CY' 2013 FORECLOSURE FILINGS**

Region/Court	1st Qtr Jan - Mar 2013	2nd Qtr Apr - Jun 2013	3rd Qtr Jul - Sep 2013	4th Qtr Oct - Dec 2013	CY 2013 TOTAL
STATEWIDE TOTAL	1101	1211	1080	1315	4707
Alfred Superior	40	39	26	36	141
York District	31	28	17	32	108
Biddeford District	44	47	64	77	232
Springvale District	66	91	71	112	340
Region 1 Subtotal	181	205	178	257	821
Portland Superior	46	50	42	77	215
Bridgton District	62	42	51	61	216
Portland District	111	94	88	89	382
Region 2 Subtotal	219	186	181	227	813
South Paris Superior	15	16	18	12	61
Auburn Superior	43	43	39	30	155
Farmington Superior	8	6	9	8	31
Lewiston District	67	65	71	82	285
Farmington District	12	25	16	19	72
Rumford District	19	19	19	24	81
Livermore Falls District	0	0	0	0	0
South Paris District	17	19	21	18	75
Region 3 Subtotal	181	193	193	193	760
Skowhegan Superior	9	10	9	15	43
Augusta Superior	22	15	11	23	71
Skowhegan District	36	38	39	47	160
Waterville District	24	39	38	49	150
Augusta District	34	62	41	58	195
Region 4 Subtotal	125	164	138	192	619
Dover Foxcroft Superior	2	1	4	1	8
Bangor Superior	33	47	24	52	156
Millinocket District	0	0	0	0	0
Dover Foxcroft District	15	18	10	23	66
Lincoln District	23	21	22	14	80
Newport District	27	27	36	23	113
Bangor District	54	61	72	74	261
Region 5 Subtotal	154	175	168	187	684

Region/Court	1st Qtr Jan - Mar 2013	2nd Qtr Apr - Jun 2013	3rd Qtr Jul - Sep 2013	4th Qtr Oct - Dec 2013	CY 2013 TOTAL
Wiscasset Superior	11	9	10	8	38
Bath Superior	6	8	2	7	23
Rockland Superior	8	10	6	5	29
Belfast Superior t	8	11	3	6	28
Belfast District	23	38	32	43	136
Wiscasset District	23	31	9	28	91
West Bath District	35	35	35	45	150
Rockland District	15	14	28	13	70
Region 6 Subtotal	129	156	125	155	565
Machias Superior	7	6	4	5	22
Ellsworth Superior	7	18	7	3	35
Bar Harbor District	0	0	0	0	0
Machias District	8	16	11	16	51
Calais District	10	13	10	11	44
Ellsworth District	37	28	21	27	113
Region 7 Subtotal	69	81	53	62	265
Houlton Superior	0	3	7	6	16
Caribou Superior	11	28	20	11	70
Caribou District	8	3	1	7	19
Houlton District	10	9	6	6	31
Madawaska District	0	0	0	0	0
Fort Kent District	7	4	2	3	16
Presque Isle District	7	4	8	9	28
Region 8 Subtotal	43	51	44	42	180

The increase in court activity of more than 120% from CY '12 to CY '13 is significant for the Bureau's counseling and referral program, since many of the counselors assigned to homeowners' cases in the pre-foreclosure stage of the process, stay with the consumers if those consumers are sued in foreclosure and opt for the court mediation process. Counselors help consumers complete the paperwork that is sent to the lender prior to mediation sessions, and counselors also make regular presentations to groups of homeowners who attend briefings to prepare them for the upcoming mediations.

PROGRAM FUNDING REPORT

Revenues received by the Bureau from a transfer tax imposed on foreclosure sales pursuant to Titles 14 M.R.S. sec. 6112 and 36 M.R.S. sec 4641-B(6) totaled \$321,146.59 during the first half of the fiscal year (July 1, 2013 – Dec. 31, 2013). While this revenue was consistent with the fiscal year budget of \$600,000, that budgeted amount was reduced at the beginning of the fiscal year from the \$900,000 amount budget in prior years. The primary difference was that in 2011 and 2012, funding to supplement the transfer tax revenue was received through the state's participation in nationwide settlements against large, out-of-state lenders and servicers facing charges of "robo-signing" foreclosure affidavits and violating borrowers' rights in the lending and servicing processes.

Contracted costs for counseling services in the period July 1, 2013 – December 31, 2013 were \$457,840.88, of which \$427,840.53 was disbursed by December 31. Counselor expenditures will be paid in their entirety by March 31, 2014. No counselor funds will be spent April 1, 2014 through June 30, 2014; see explanation, *supra*.

Other expenditures for the program during that time were as follows:

Printing	<u>\$ 3,748.81</u>
Postage	<u>\$ 8,956.44</u>
Photocopying	<u>\$ 69.24</u>
Personal Services – State	<u>\$ 86,424.91</u>
	\$99,199.40

These expenditures represent a 20% reduction from Bureau expenditures for the same period a year ago. In particular, Bureau personal services expenses were reduced by 17.5%.

When it became clear in early 2013 that lower-than-expected revenues were being generated by the transfer tax, the Bureau made the decision for FY '14 to fully fund counselor contracts for 9 months, rather than reduce them all by 25% for the entire fiscal year. This left a gap April 1, 2014 through the end of the current fiscal year (June 30, 2014) without funding. When the Bureau was unsuccessful in obtaining a financial order to allocate additional monies for that 90-day period, the Attorney General's office offered to cover that cost, using funds from a litigation settlement account. Referrals will still be made to counselors during that period, but the counselors will invoice the AG's office directly.

The Bureau's budget for fiscal year 2015, beginning July 1, 2014, calls for further reductions in program expenditures, an additional 10% more than the 25% reduction adopted in FY '14. This will require restructuring individual counselor contracts. The Bureau already took steps to reduce its internal program reliance on the transfer tax funding, as described in earlier reports to the Legislature, including transferring positions out of the program such that the 4 FTEs (full-time equivalents) were reduced to 2 FTEs for Fiscal Year '14. This was accomplished by eliminating a vacant Office Specialist II position, and reallocating percentages of several other Bureau positions out of the program and into other related Bureau activities, including anti-predatory lending efforts and investigative functions. The goal was to maintain a high level of consumer assistance by integrating foreclosure response functions into other consumer response functions performed by Bureau staff with respect to the wide range of financial products under the Bureau's jurisdiction.

The Bureau is prepared to make the decisions necessary to keep the program's expenses within its revenues and budget. The Judiciary Committee, the full Legislature and the Administration will have the opportunity to review the funding process in its consideration of an omnibus foreclosure-related bill during the remaining weeks of the current Legislative session.

CONCLUSION

The State's foreclosure assistance and referral program continues to produce good results in its efforts to ensure that lenders and servicers comply with national standards concerning foreclosure diversion and loan modification, in those cases in which such outcomes are appropriate. The demand for such assistance remains high in Maine, despite apparent reductions in foreclosure activity in other states. Funding challenges remain, and the Bureau will work with the Administration and the Legislature to provide the most efficient and effective consumer assistance possible within the limits of available funding sources.