housingactionillinois

WHO'S SERVING WHOM?
ANALYZING THE FREQUENCY OF LOAN SERVICER MODIFICATIONS FOR HOMEOWNERS FACING FORECLOSURE

Introduction

In September 2008, Housing Action Illinois surveyed housing counselors working for Illinois' HUD-certified counseling agencies to evaluate how often specific loan servicing companies have offered workout plans to homeowners in order to avoid foreclosure.

Counselors were also asked about a variety of other issues, including what type of workout plans are most often offered, how often renters live in the properties being foreclosed on and how the demand for foreclosure counseling has changed over time.

The purpose of the survey was to determine whether current efforts to assist homeowners avoid foreclosure are working and, if not, what barriers exist that are preventing sustainable workouts. This report recommends public policy improvements, based on the survey findings, to increase the number of homeowners who can negotiate sustainable loan workout plans and to minimize the negative economic impact of the foreclosure crisis on individuals and communities.

Key Findings

1. The most common outcome for foreclosure counseling clients was negotiation of a repayment plan. However, repayment plans are of limited or no value to most homeowners at-risk of foreclosure because there is no change in loan terms and such plans require that all past due principal and interest payments in the loan be paid in full.

   Moderately common outcomes included a temporary suspension of payments, foreclosure, a lengthened loan term, a lowered/frozen interest rate, or a pre-foreclosure sale/short sale. The least common outcomes were a deed in lieu of foreclosure (a small payment for vacating the house, often referred to as "cash for keys"), a principal writedown, or a refinance into a new affordable loan.

2. There is a difference between how frequently different servicers agree to workout plans.

   Nearly three-quarters, or 27 of the 38, servicers evaluated were found to agree to workout plans rarely—in less than one in four cases. Among those servicers with the highest volume of loans who were found least likely to agree to workout plans were Argent/AMC/Ameriquest (acquired by Citi in August 2007), America's Servicing Company (a subsidiary of Wells Fargo), First Franklin Loan Services/Home Loan Services, Bank of America, Saxon Mortgage, American Home Mortgage Servicing (established in April 2008 in the aftermath of the bankruptcy of American Home

Mortgage), and Aurora Loan Services (a subsidiary of Lehman Brothers Bank). These 27 servicers accounted for 62.4% of the counseling cases evaluated.

The other 11 other servicers were evaluated to agree to workout plans at least half the time or more: JPMorgan Chase, Chase (a subsidiary of JPMorgan Chase), CitiMortgage (a subsidiary of Citi), Dovenmeuhle Mortgage, Litton Loan Servicing, National City, Countrywide Home Loans (acquired by Bank of America), Washington Mutual (acquired by JPMorgan Chase), Liberty Savings Bank, Fifth Third Bank and Everhome Loss Mitigation. These 11 servicers accounted for 33.2% of the counseling cases evaluated.

The other 4.5% of counseling cases were with 32 servicers who did not meet the threshold for evaluation in this report.

Subsequent to completion of the survey, JP Morgan Chase and its subsidiaries, voluntarily initiated a significant loan modification program. Other servicers have negotiated loan modification programs to settle legal actions (Countrywide), as a condition of receiving federal bailout funds (Citi and its subsidiaries), or as a result of being taken over by the federal government (IndyMac). These servicers represented 30% of all counseling cases evaluated. However, the efficacy of these programs has not been evaluated as of yet.

None of the 27 servicers with lower rankings have agreed to similar programs subsequent to completion of the survey.

3. It is important that homeowners seeking to avoid foreclosure obtain assistance from a HUD-certified housing counseling agency as soon as possible, ideally before their lender has notified them about their intent to foreclose. Homeowners are more likely to secure a workout plan with their servicer if they can provide an accurate assessment of their financial situation to the lender and formulate a sustainable budget.

   Despite the difficulty in securing workout plans from servicers, the survey results suggest that homeowners facing foreclosure are much better off seeking assistance from a HUD-certified housing counseling agency. A September 2008 study by the State Foreclosure Prevention Working Group showed that nearly 80% of seriously delinquent homeowners were not engaged in any type of loss mitigation efforts and are proceeding directly to foreclosure.[1]

Additional Findings

4. The most common reasons why people became at-risk of foreclosure are loss of income and the original terms of their loan not being affordable. Anecdotal statements from counselors suggest that loss of income is an increasing occurrence as the national economy continues to worsen.

[1] "Analysis of Subprime Mortgage Servicing Performance." State Foreclosure Prevention Working Group, Data Report No. 3, September 2008.

5. Servicers were rarely willing to work with homeowners before they are in default. In many cases, homeowners who could develop a sustainable loan workout plan before they miss a payment would have a better chance of avoiding foreclosure.

6. Principal writedowns, meaning reducing the principal owed on a loan, were often needed but almost never offered. Principal writedowns may be appropriate in cases where the home value was over-appraised to begin with and/or when the home has subsequently lost value due to the a community-wide decline in home values.

7. Thirty-nine percent of respondents said that renters often or very often lived in the properties of foreclosure counseling recipients.

8. Between August 2006 and August 2007, there was a relatively small increase in the number of foreclosure clients seen by individual counselors. Between August 2007 and August 2008, the average number of foreclosure clients seen by each counselor more than doubled. During August 2008, individual housing counselors saw an average of 35 foreclosure clients, or more than 1 per day.

Methodology and Notes on the Survey

Forty-five housing counselors representing 35 different HUD-certified housing counseling agencies across Illinois participated in the survey regarding their experiences doing foreclosure counseling through September 2008. Counselors represented agencies serving Chicago, the metropolitan Chicago area and the remainder of Illinois.

Approximately 50 HUD-certified housing counseling agencies provide in-person foreclosure counseling statewide. (There are more than 100 HUD-certified housing counseling agencies statewide, but many of these do not provide foreclosure counseling or only provide counseling over the telephone.)

The responses of individual housing counselors ("counselors") and HUD-certified counseling agencies ("agencies") about individual loan servicing companies ("servicers"), as well as the names of which agencies responded to the survey, are not included as part of the results in order to protect the future ability of individual counseling agencies to work with individual servicers.

Servicers included in the survey were drawn from a national directory of 88 loan servicers. Thirty-eight servicers met the threshold for inclusion in the in the final report, which was evaluations from at least four different counselors and a total of 40 or more counseling cases from that servicer. These 38 servicers represented 96% of the more than 5,600 counseling cases on which counselors based their evaluations. The total number of counseling cases represents an average experience level of 126 cases for each of the 45 counselors who participated in the survey.

Counselors were also asked to self-identify other servicers they have worked with but who were not included in the directory. Only 5 servicers with a total of 11 counseling cases were identified in this way. These servicers were not included in the data set because of the very low number of cases.

Servicers administer a loan from the time the proceeds are dispersed until the loan is paid off. This includes sending monthly payment statements and collecting monthly payments, maintaining records of payments and balances, remitting funds to the loan's owners and following up on delinquencies. Servicers are compensated by retaining a relatively small percentage of each periodic loan payment.

The servicer often manages mortgages that have been purchased by one or more investors in the secondary mortgage market. Servicers can be stand-alone companies, but are often divisions or subsidiaries of larger companies that make loans and provide other financial services. The servicing industry has been in great flux since the start of the foreclosure crisis, resulting in numerous acquisitions and some bankruptcies. We have attempted to identify the current ownership of the servicers evaluated, but this effort should not be considered comprehensive.

In this report, the term "workout plans" refer to any measure to avoid a foreclosure, including a repayment plan, a pre-foreclosure sale/short sale and loan modifications. The term "loan modification" includes measures to change the terms of a loan in order to make the loan affordable to the homeowner over the long-term. Loan modifications include a temporary suspension of payments, a lengthened loan term, a lowered/frozen interest rate, a principal writedown, and/or a refinance into a new affordable loan. Many loan modifications capitalize the arrears, adding the past due amount on to the principal of the mortgage. Unfortunately, in general usage the terms are not defined consistently, often making it difficult to evaluate the actions of servicers.

Readers interested in seeing a similar survey should refer to a series of four reports that have been completed by the California Reinvestment Coalition, *The Widening Chasm Between Words and Deeds*. The reports are available at www.calreinvest.org.

About Housing Action Illinois

Housing Action Illinois' mission is to increase and preserve the supply of decent, affordable and accessible housing in Illinois, particularly for households with the lowest incomes, through three program areas: Education and Organizing; Public Policy Advocacy; and Training and Technical Assistance. We have more than 150 organizational members statewide, including homeless service providers, nonprofit housing developers and housing counseling agencies. Our website is www.housingactionil.org.

Detailed Survey Results

The detailed survey results summarize the responses for each question. Most questions asked counselors to estimate the frequency of different outcomes based on the following uniform scale:

Frequency	Percentage of Total Occurrences
Very Often	75% or more
Often	50% to 74%
Sometimes	26% to 49%
Rarely	25% or less
Never	0%

Question 1: What are the most common outcomes for your clients?

As shown in Table 1, the most common outcome for foreclosure counseling clients was negotiation of a repayment plan. Forty percent of respondents said this often occurred. Moderately common outcomes included a temporary suspension of payments, a lowered/frozen interest rate, a pre-foreclosure sale/short sale, a lengthened loan term and foreclosure. Refinances into a new affordable loan were almost never offered; only 3% of counselors reported this often occurred. No counselors agreed that principal writedowns were often offered. (These results represent short-term outcomes and not outcomes after a homeowner has stopped working with a counselor.)

Table 1: Most Common Outcomes for Foreclosure Counseling Clients

Outcome	% of Respondents Reported This Occurs at Least in 50% of all Cases
Repayment Plan	40%
Temporary Suspension of Payments	26%
Lowered/Frozen Interest Rate	22%
Pre-Foreclosure Sale/Short Sale	21%
Lengthened of Loan Term	18%
Foreclosure	18%
Refinance into New Affordable Loan	3%
Deed In Lieu of Foreclosure	3%
Principal Writedown	0%

Question 2: How common are the following experiences among the people you work with in foreclosure counseling?

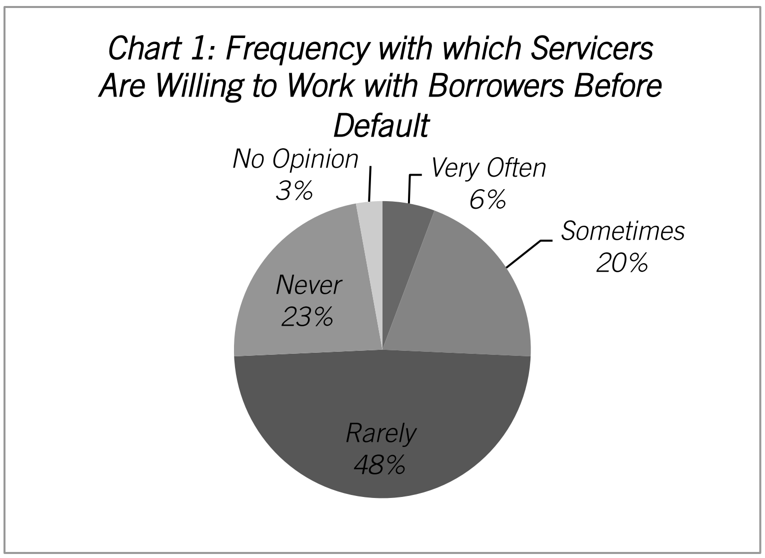
The most common experiences of people seeking foreclosure counseling were loss of income and the original loan terms not being affordable. Ninety-four percent and 71% of respondents, respectively, said these experiences occurred often. Forty percent of counselors stated that a previous workout had often failed. Suspected fraud on the part of the broker or lender, lack of translated loan documents and foreclosure rescue scams were the least common, but not infrequent, experiences.

Table 2: Most Common Experiences Requiring Foreclosure Counseling

Outcome	% of Respondents Reported This Occurs at Least in 50% of all Cases
Loss of Income	94%
Original Loan Terms Not Affordable	71%
Previous Workout Plan Failed	40%
Suspected Broker/Lender Fraud	26%
Problems Due to Lack of English Language Skills/Lack of Translated Loan Documents	24%
Foreclosure Rescue Scam	12%

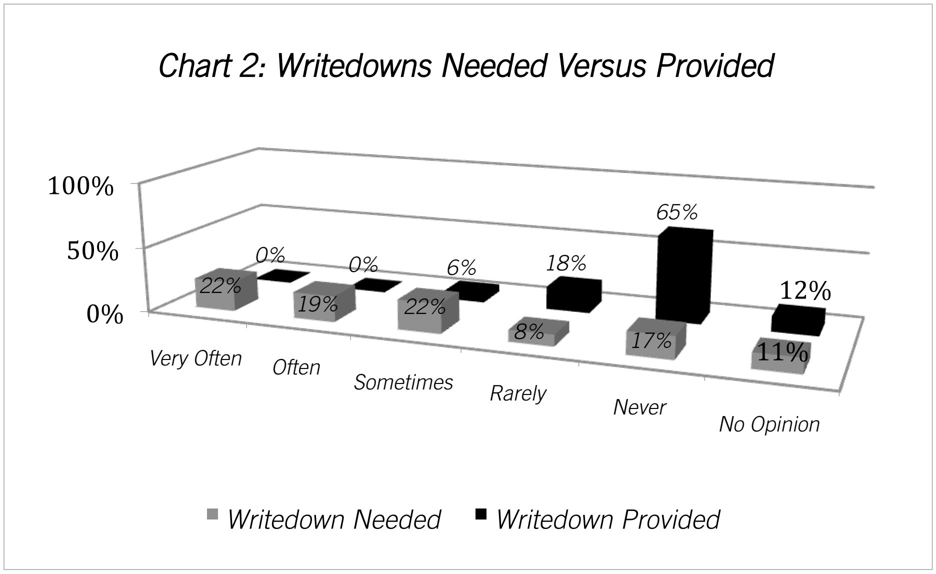
Question 3: Are servicers willing to work with homeowners before they are in default?

Chart 1 shows that 73% of counselors responded that servicers were rarely or never willing to work with homeowners before they are in default, i.e., missed a payment. Only 27% of counselors responded that servicers were willing to do so at least sometimes or very often. Counselors consistently report that homeowners are more likely to avoid foreclosure if the servicer is wiling to work the homeowner prior to default.



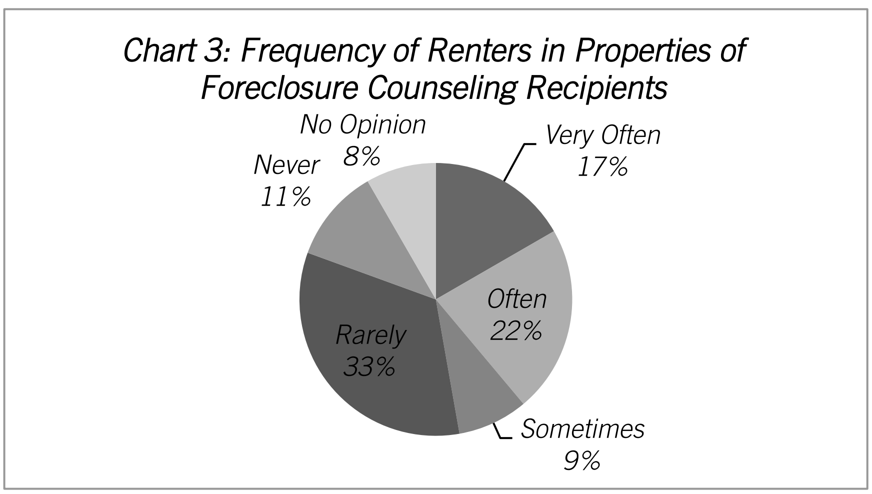
Question 4: In your experience, how common are principal writedowns, where the servicer agrees to reduce the amount of loan in order to make the payment more affordable and/or to more accurately reflect the current value of the home, and how often are they needed?

Principal writedowns were often needed but almost never offered. As Chart 2 shows, 63% of counselors reported that writedowns were needed at least sometimes but only 6% of counselors said they were offered that often. By contrast, 83% of counselors reported that writedowns were rarely or never offered. Only 25% of counselors said that writedowns were rarely or never needed.



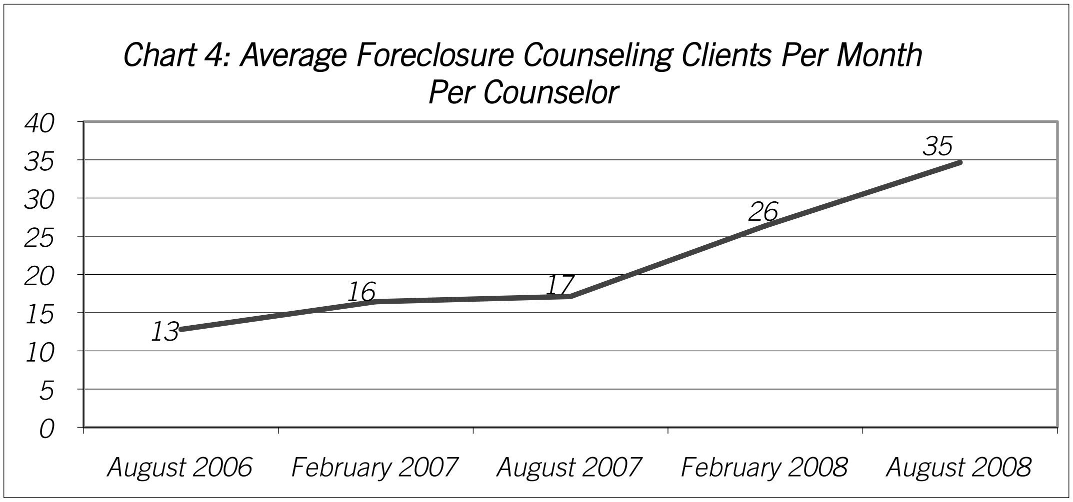
Question 5: In your experience, how often are tenants living in the affected properties—either investor owned or owner-occupied properties?

As Chart 3 shows, 39% of respondents reported that tenants renters often or very often lived in the properties of foreclosure counseling recipients.



Question 6: About how many homeowners did you provide foreclosure counseling to during each of the following months?

Chart 4 shows that between August 2006 and August 2007 there was a relatively small increase in the number of foreclosure clients seen by individual counselors. Between August 2007 and August 2008, the average number of foreclosure clients seen by each counselor more than doubled. During August 2008, individual housing counselors saw an average of 35 foreclosure clients, or more than 1 per day.



Question 7: Please estimate the number of foreclosure clients you have represented with each lender/servicer and how often each lender/servicer eventually agrees to a workout plan? (Select answers only for those you have experience with.)

To determine an average frequency for workout plans, responses were assigned a numerical value as follows:

Frequency	**Numerical Value**
Very Often (75% or more)	5
Often (50% to 74%)	4
Sometimes (26% to 49%)	3
Rarely (25% or less)	2
Never (0%)	1

Table 3 shows that there was a difference between how frequently different servicers agree to sustainable workout plans. Nearly three-quarters, or 27 of the 38, of servicers were found to rarely agree to workout plans. These 27 servicers accounted for 62.4% of the counseling cases evaluated. Only 11 servicers agreed to workout plans half the time or more often. These 11 servicers accounted for 33.2% of the counseling cases evaluated.

The other 4.5% of counseling cases were with 32 servicers who did not meet the threshold for evaluation in this report.

Table 3: Workout Plans Agreed to By Specific Loan Servicers

Lender/Servicer	Estimated Counseling Cases	Workout Plans: Average Frequency	Workout Plans: Category	Percent Counseling Cases
JPMorgan Chase	145	3.43	Sometimes	2.56%
Chase (a subsidiary of JPMorgan Chase)	320	3.36	Sometimes	5.65%
CitiMortgage (a subsidiary of Citi)	180	3.33	Sometimes	3.18%
Dovenmeuhle Mortgage	73	3.25	Sometimes	1.28%
Litton Loan Servicing	193	3.22	Sometimes	3.40%
National City (being acquired by PNC Financial Services Group)	110	3.10	Sometimes	1.94%
Countrywide Home Loans (acquired by Bank of America)	448	3.00	Sometimes	7.90%
Washington Mutual (acquired by JPMorgan Chase)	208	3.00	Sometimes	3.66%
Liberty Savings Bank	103	3.00	Sometimes	1.81%
Fifth Third Bank	60	3.00	Sometimes	1.06%
Everhome Loss Mitigation	43	3.00	Sometimes	0.75%
CitiFinancial (a subsidiary of Citi)	133	2.90	Rarely	2.34%
Homecomings (a subsidiary of GMAC)	168	2.89	Rarely	2.96%
Ocwen Loan	218	2.86	Rarely	3.84%
GMAC Mortgage	195	2.80	Rarely	3.44%
Fremont General (acquired by CapitalSource Bank)	95	2.80	Rarely	1.68%
First Horizon Home Loan	78	2.80	Rarely	1.37%
Wachovia (being acquired by Wells Fargo)	68	2.80	Rarely	1.19%
EMC Mortgage (a subsidiary of JPMorgan Chase)	185	2.75	Rarely	3.26%
Option One Mortgage (acquired by American Home Mortgage)	150	2.75	Rarely	2.65%
Fremont Investment and Loan (acquired by CapitalSource Bank)	140	2.75	Rarely	2.47%
Select Portfolio	40	2.71	Rarely	0.71%
Wells Fargo Home Mortgage	248	2.69	Rarely	4.37%

Lender/Servicer	Estimated Counseling Cases	Workout Plans: Average Frequency	Workout Plans: Category	Percent Counseling Cases
Indymac Bank (acquired by federal government)	165	2.67	Rarely	2.91%
Wilshire Credit	125	2.67	Rarely	2.21%
ABN/AMRO (acquired by RBS, Santander and the Dutch government)	53	2.63	Rarely	0.93%
Citi Consumer Finance (a subsidiary of Citi)	123	2.60	Rarely	2.16%
Wells Fargo Financial	40	2.57	Rarely	0.71%
Argent/AMC/Ameriquest (acquired by Citi)	133	2.56	Rarely	2.34%
America's Servicing Company (a subsidiary of Wells Fargo)	178	2.50	Rarely	3.13%
First Franklin Loan Services/Home Loan Services	170	2.50	Rarely	3.00%
HSBC	108	2.44	Rarely	1.90%
Bank of America	118	2.36	Rarely	2.07%
Accredited Home Loans	105	2.33	Rarely	1.85%
Saxon Mortgage	158	2.20	Rarely	2.78%
American Home Mortgage Servicing (created after American Home Mortgage declared bankruptcy)	140	2.13	Rarely	2.47%
Aurora Loan Services (a subsidiary of Lehman Brothers Bank)	158	2.10	Rarely	2.78%
Irwin Mortgage (portfolio acquired by multiple companies)	50	2.00	Rarely	0.88%

These 38 servicers represented 95.5% of the more than 5,600 counseling cases on which counselors based their evaluations. The other 4.5% of counseling cases were with 32 servicers who did not meet the threshold for evaluation.

Subsequent to completion of the survey, JP Morgan Chase and its subsidiaries, voluntarily initiated a significant loan modification program. Other servicers have negotiated loan modification programs to settle legal actions (Countrywide), as a condition of receiving federal bailout funds (Citi and its subsidiaries), or as a result of being taken over by the federal government (IndyMac). These servicers represented 30% of all counseling cases evaluated. However, the efficacy of these programs has not been evaluated as of yet.

Question 8. What actions on the part of the homeowners seeking foreclosure counseling will best help them avoid foreclosure?

The top 3 responses to this open-ended question were as follows:

- Seek foreclosure counseling from a HUD-certified counseling agency as soon as possible.
- Formulate a budget focused on reducing expenses.
- Don't ignore the communications from your servicer and respond in a timely manner.

Question 9: What are the best strategies that a counselor and/or homeowner can use to get the servicer to agree to a sustainable workout plan?

The top 2 responses to this open-ended question were as follows:

- Give an accurate assessment of the homeowner's financial situation to the lender, showing the homeowners willingness to work out a plan of action and formulating a budget.
- Persistent and regular contact between all parties.

Key Recommendations

These survey findings provide evidence to support federal legislation to systematically and automatically modify loan terms, a temporary federal moratorium on home foreclosures until such legislation becomes law, and other measures. Federal legislation supported by groups such as the National Community Reinvestment Coalition and the Center for Responsible Lending has already been introduced to implement all these actions.

Additional measures are necessary because data suggests the number of homeowners facing foreclosure is going to increase and existing voluntary efforts by servicers to develop workout plans for homeowners have not significantly reduced foreclosures.

For example, publicly available analyses show that mortgage delinquencies and foreclosure filings will continue to rise in 2009. For example, on December 8, 2008 TransUnion.com released a forecast predicting that the national 60-day mortgage delinquency rate will end 2008 at 4.66% of all outstanding loans and possibly reach 7% by the end of 2009. During the first quarter of 2007, the rate was 2%.

As for workout plans, many have been negotiated through the HOPE NOW Coalition, a coalition of lenders, servicers, counseling agencies and trade associations. However, most of these have primarily consisted of repayment plans, which as we stated earlier in the report are not of a long-term benefit to most homeowners.

On December 8, 2008, the Office of the Comptroller of the Currency (OCC) announced that servicers modified loan terms during the first half of 2008 for more than 200,000 homeowners. The majority of those homeowners, 58%, have since missed at least one more payment, putting them at renewed risk of foreclosure, according to the OCC. The OCC did not offer suggestions as to why so many homeowners have missed payments, but a major factor is certainly that so many of the workouts solely consist of repayment plans.

Another voluntary measure has been the HOPE for Homeowners loan program, which allows banks to move homeowners into government-insured loans if lenders agree to writedown a portion of the principal. Although recently revised, the program has not been attractive to lenders and almost no homeowners have been assisted.

More recently, Fannie Mae and Freddie Mac announced a series of actions designed to help homeowners and loan servicers address potential mortgage problems and prevent unnecessary home foreclosures However, Fannie Mae and Freddie Mac own about 20% of seriously delinquent loans. According to the Federal Housing Finance Agency, 60% of the delinquent loans are held by investors who control them through mortgage-backed securities.

The Treasury Department's recent actions to lower interest rates on newly issued home loans will help people buying homes but not assist households with existing loans.

Therefore, we recommend the following measures:

1. Federal Legislation to Systematically and Automatically Modify Loan Terms

   On December 10, 2008, Representative Maxine Waters (D-CA)—Chairwoman of the Subcommittee on Housing and Community Opportunity of the House Financial Service Committee—introduced legislation modeled on Federal Deposit Insurance Corporation (FDIC) Chairman Sheila Bair's Plan to Systematically Reduce Foreclosures. The "Systematic Foreclosure Prevention and Mortgage Modification Act of 2008" (H.R. 7326) is designed to dramatically reduce the number of foreclosures by establishing a systematic approach to modifying troubled mortgages.

   The legislation would pay servicers $1,000 for each modification and have the government share up to 50 percent of any loss if a modified loan re-defaults. The cornerstone of the plan is the requirement that participating servicers must systematically review all loans in their portfolios. Each loan will be subjected to a net present value test to determine whether it is more beneficial to modify or to foreclose. Loans passing the test must be modified.

   The legislation will not allow homeowners without adequate income to maintain their home. The legislation also protects the owner of the loan because the cost of the modification must be less than the estimated cost of the foreclosure.

   A more ambitious proposal that would benefit homeowners who need a principal writedown to make their loan affordable would be the establishment of a national Homeownership Emergency Loan Program (HELP Now). Developed by the National Community Reinvestment Coalition, this program would authorize the Treasury Department to purchase loans in bulk and at steep discounts (equal to their current market values) from securitized pools. The purchase discounts would be applied to the modification of problem loans in order to create long-term homeowner affordability. Loans could be modified, repackaged, and resold immediately. Loans for which the purchase discounts remain insufficient to make them affordable, based on standard industry underwriting criteria, would be refinanced with the use of a government-provided soft second loan, to be repaid by the future home appreciation.

2. Strengthen Requirements that Servicers Modify Loans

   The major obstacle to securing more sustainable loan modifications from servicers is that servicers have had stronger incentives, such as avoiding lawsuits from the investors who actually own the loans, to foreclose on homes than to try to fix bad loans.

   On October 24, 2008, House Financial Services Committee Chairman Barney Frank (D-MA) and other members of the committee issued a press release stating that provisions in the Emergency Economic Stabilization Act of 2008 allowed for mortgage modification in cases where the losses would be less than in a foreclosure, and thus in the national interest.

   Despite this statement, on December 1, 2008, a hedge fund, Greenwich Financial Services, sued Countrywide Financial Corporation demanding that Countrywide compensate holders of some securities backed by mortgages if the lender changes the terms of the loans. The case may be dismissed on its merits, as this is a largely untested area of law, but securing loan modifications will be more difficult as long as threat of more lawsuits exist.

To strengthen existing provisions allowing servers to modify mortgages, the Foreclosure Prevention and Sound Mortgage Servicing Act of 2008 (H.R. 5679) would amend the Real Estate Settlement Procedures Act of 1974 to create a legal duty for mortgage servicers to engage in reasonable loss mitigation activities before foreclosing. Representative Maxine Waters (D-CA) introduced this legislation in October 2008.

Importantly, the legislation identifies an essential element of sustainable loss mitigation activities—their long-term affordability to the homeowner. Loan modifications that just stretch out the original repayment terms are not sustainable in most cases. An example of a loan modification that is more likely to be sustainable would be to freeze the interest rate of an adjustable rate mortgage at the initial, affordable "teaser" rate for some significant length of time.

3. Temporary Federal Moratorium on Home Foreclosures

President-elect Barack Obama has called for financial institutions that participate in the federal government's $700 billion financial rescue plan (part of the Emergency Economic Stabilization Act of 2008) to be required to adhere to a homeowner's code of conduct, including a 90-day foreclosure moratorium for any homeowners living in their homes who are making good faith efforts to pay their mortgages. The purpose of the moratorium is meant to create stability until more far-reaching solutions are implemented once he takes office.

To be truly effective, however, a foreclosure moratorium needs to cover all servicers and be put in place until federal legislation to systematically and automatically modify loans becomes law.

A better moratorium could be modeled on the Home Retention and Economic Stabilization Act (H.R. 6076), introduced in May 2008 by Rep. Doris Matsui (D-CA). This bill would allow struggling homeowners who meet certain criteria to delay a foreclosure sale by up to nine months, so long as they make reasonable monthly mortgage payment to their lender and maintain the property responsibly. Only subprime mortgages and mortgages with negative amortization are eligible. This proposed timeout would benefit homeowners and industry in several ways because it would allow more time for: (1) homeowners to seek a solution through a loan modification, refinance, or home sale; (2) servicers to work with troubled homeowners; and (3) new programs, such as an FHA expansion, to be implemented.

4. Allow Bankruptcy Judges to Modify Loan Terms on Primary Residences

President-elect Obama has expressed support for legislation reforming the bankruptcy code to close the loophole that currently allows bankruptcy judges to modify the terms of mortgages on investment properties and vacation homes but not on primary residences. Right now, a loan on a family's primary residence is the only secured debt that cannot be restructured in a Chapter 13 bankruptcy payment plan.

As proposed in existing legislation (S. 2136), introduced by Illinois Senator Richard Durbin in October 2007, such restructuring would have built-in protections for lenders: only families who fail a means test and therefore face foreclosure would be eligible; interest rates would be set at commercially reasonable, market-based rates; the loan term would not be able to exceed 40 years; and the principal balance would not be able to be reduced below the fair market value of the property.

Additional Recommendations

5. Provide Adequate Resources for HUD-Certified Housing Counseling Agencies

   The $360-million National Foreclosure Mitigation Counseling (NFMC) Program was launched in December 2007 with funds appropriated by Congress to increase the availability of foreclosure counseling services across the country. Grants have been made to fund foreclosure counseling and legal assistance to homeowners at risk of foreclosure. Illinois has received nearly $9.9 million of this funding, and it is estimated that this funding will assist 34,938 households, representing an investment of just $283 per household.

   The federal government must continue to provide adequate resources to HUD-certified housing counseling agencies to insure that homeowners at risk of foreclosure have access to quality housing counseling.

6. Provide Additional Resources for Renters Impacted by Foreclosures

   A promising recent policy development is Fannie Mae's December 15, 2008, announcement that it would sign new leases with renters living in foreclosed properties owned by the company. Almost all financial institutions have policies to evict renters after foreclosure. State and federal law support these policies. A positive step to change this situation would be passage of federal legislation to require entities that take ownership of rental properties in foreclosure to honor the lease of the current leaseholder, to provide at least 90 days notice prior to terminating the tenancy, and to provide for transfer of Section 8 contracts to new owners. (Similar legislation became law in Illinois earlier this year but needs to be strengthened.) Federal legislation (H.R. 5963 and S. 3034) accomplishing this goal has already been introduced.

7. Increase Federal Emergency Shelter Grant Funding as Part of Any Economic Stimulus Package

   Before the recommendations in this report can be fulfilled, many families will continue to lose their homes, many of whom will be financially strapped families lacking the resources to transition to other homes. In addition, as unemployment increases many who lose their jobs are at risk of losing their homes, compounding the current housing crisis.

To reduce the surge in homelessness due to foreclosure and unemployment, any federal economic stimulus bill must include an additional $2 billion for the Emergency Shelter Grant program. This program provides short-term rental assistance and housing relocation or stabilization services for homeless individuals and families, or individuals and families at risk of homelessness. Two billion dollars would prevent 400,000 households from becoming homeless or rapidly rehouse families that do lose their homes.

While the voluntary and mandatory loan modification programs that have been announced by certain servicers subsequent to the completion of this survey represent steps in a positive direction, they will not benefit the majority of homeowners facing foreclosure whose loans are serviced by companies that have not implemented such programs. To address the foreclosure crisis in a more comprehensive manner, implementing the recommendations in this report, while not stopping all foreclosures, would allow many more homeowners to stay in their homes and reduce the negative impact that foreclosures are having on communities and the economy as a whole.