California Foreclosure Prevention Act Report

State of California
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Table of Contents

Executive Summary 1

Background 3

Regulations 5

Provisions of the CFPA 7

Implementation 11

Data and Observations 14

Highlights 25

Appendixes

Appendix A – Licensees Exemption List

Appendix B – Mortgage Loan Survey Data

Executive Summary

On February 20, 2009, Governor Schwarzenegger signed ABX2 7 (Lieu – Chap. 5, Stats. 2009) and SBX2 7 (Corbett – Chap. 4, Stats. 2009), which established the California Foreclosure Prevention Act (CFPA). The CFPA encourages residential mortgage loan servicers to streamline the process for modifying loans by lengthening the timeframe of nonjudicial foreclosures for servicers that do not implement a comprehensive loan modification program.

Specifically, the CFPA prohibits a mortgagee, servicer, or any authorized person (hereinafter referred to collectively as "servicer") from giving a notice of sale for an additional 90 days after filing the notice of default in the foreclosure process, unless the servicer has implemented a comprehensive loan modification program meeting specified minimum requirements under the CFPA and obtained an order to that effect from its regulator exempting the servicer from providing the additional time period. The comprehensive loan modification program exemption is intended to ensure that a servicer has implemented a program to modify loans of borrowers facing financial hardships. While the CFPA was enacted before the guidelines for the federal Home Affordable Mortgage Program (HAMP) were released, efforts were made in the drafting and implementation of the CFPA to promote uniformity between the state and federal programs.

The CFPA requires the Secretary of the Business, Transportation and Housing Agency to submit an initial report to the Legislature three months after the issuance of the first exemption to a residential mortgage loan servicer, regarding the details of the actions taken to implement the CFPA, the number of applications received, and the number of orders issued. The CFPA requires an additional report every six months after the initial report. This report incorporates all of the required reports.

This report provides information on the implementation of the CFPA. It further provides data on the number of servicers who sought and obtained final orders of exemption from the 90-day waiting period in foreclosure sales from their respective regulators, as provided by the CFPA, based on their implementation of a comprehensive loan modification program plan. In addition, the report provides statistical information collected from servicers related to loan modifications and other workouts from June 15, 2009, the operative date of the CFPA, through September 30, 2010. The statistical information is based on quarterly data collected from servicers by the departments, and includes all but the final quarter in 2010. During the periods reported, the number of modifications reported to the departments totaled over 171,000. Of those modifications, approximately 114,000 reflected monthly payment reductions to borrowers to less than the payment prior to the modification.

This report does not provide substantive analysis of the data or present definitive conclusions on the efficacy of the CFPA because the data is imperfect and cannot account for external factors impacting the foreclosure and loan modification process. With respect to the data, there were significant variances because the lenders and servicers reporting the information were uncertain how to report their loans and modifications initially, the composition of the companies vary by quarter, different companies have reported during different quarters and some have discontinued reporting. Nevertheless, the report describes and summarizes the information obtained through the departments' loan modification surveys, and serves as a resource for information on loan modifications in this state.

Background

In the fall of 2008, the Governor proposed a concept to address the continuing foreclosure crisis in California. This proposal eventually became the California Foreclosure Prevention Act (CFPA), which became operative on June 15, 2009, and is part of the Governor's plan to reduce foreclosures in California. The CFPA was a continuation of the Governor's previous actions to encourage loan modifications by residential mortgage servicers, including a November 2007 agreement with servicers intended to address interest rate resets and the signing of SB 1137 (Perata – Chap. 69, Stats. 2008) to require servicers to reach out to borrowers to attempt to work out a solution to delinquent mortgages prior to foreclosure. As enacted by the Legislature through ABX2 7 (Lieu) and SBX2 7 (Corbett), the CFPA continues the efforts to reduce foreclosures and to streamline the loan modification process.

The CFPA prohibits a servicer from proceeding with a notice of sale in a nonjudicial foreclosure action on an owner-occupied property for an additional 90 days after filing a notice of default, unless the servicer has implemented a comprehensive loan modification program and obtained an order to that effect from its regulator. For a servicer that has not obtained the order of exemption, the additional 90 days under the CFPA is in addition to the 3-month period already required under the law between the filing of a notice of default and proceeding with a notice of sale. The availability of the exemption order is intended to encourage servicers to implement comprehensive loan modification programs meeting the minimum requirements of the CFPA. However, for servicers unable or unwilling to establish comprehensive loan modification programs meeting the requirements of the CFPA, the additional 90 days in the foreclosure process provides borrowers additional time to obtain a loan modification with his or her servicer or to find an alternative solution to foreclosure. The comprehensive loan modification program exemption ensures that a servicer has implemented a program to modify loans of borrowers facing financial hardships.

The CFPA impacts the licensees of the Departments of Corporations (DOC), Financial Institutions (DFI), and Real Estate (DRE), collectively referred to as Departments. It also applies to any entity that services residential mortgage loans on property located in California, such as national banks and credit unions. All three departments have licensees that issue loans secured by real property that are required to comply with the CFPA. The Departments worked together to implement the provisions of the CFPA including adopting emergency and permanent regulations, creating a joint application, and developing the application process. Interested parties were invited to provide comments during the development of the regulations in order to address some of their concerns in the regulations. Once the regulations were operative, the Departments received and reviewed applications submitted by servicers for exemption orders. The servicers that were issued exemption orders were asked to complete surveys on a quarterly basis regarding their loans and related modifications and foreclosures. The data contained in those surveys is contained in this report.

The CFPA requires the Secretary of the Business, Transportation and Housing Agency to submit an initial report to the Legislature on the implementation of the CFPA three months after the issuance of the first exemption to a residential mortgage servicer and subsequent reports every six months thereafter. This report incorporates all of the reports required under the CFPA through the sunset date of the Act, January 1, 2011.

Regulations

Implementation of the CFPA required the adoption of emergency regulations by the Departments. To ensure uniformity, the Departments established an internal workgroup to review the requirements of the CFPA, develop regulations, develop the application, and coordinate the application review and approval processes of the Departments. The following steps were taken to develop and issue regulations under the CFPA.

March 2009

- A timeline for the implementation of the CFPA was posted on each Department's website. The timeline ensured that the implementation was compliant with the timeframes identified in the CFPA and provided certainty to industry and the public regarding the operative date of the law.

April 21, 2009

- The Departments released draft emergency regulations to interested parties and requested comments by May 6, 2009. The draft regulations included, among other items, program requirements, loan modification features, the application and application instructions, and data to be provided. In addition to being posted on the Departments' websites, the draft emergency regulations were sent to known interested parties, industry groups, and consumer groups.

May 6, 2009

- The Departments received 17 comment letters from interested parties. The comments received were from a consortium of consumer and public interest groups, industry groups, and other parties. The comments covered a variety of concerns that included, but were not limited to, requests for clarification of the requirements, discussions of the impact on small business, a request to include homeowner association debt in the loan modification calculations, requests for clarification on the interplay between the CFPA and the US Treasury's Home Affordable Modification Program (HAMP), a request for exemptions on a loan basis rather than servicer basis, concerns regarding whether the housing related debt to gross income ratio would be 38% in the aggregate or for every loan, objections to the inclusion of junior liens in the calculations, a request to add language that would increase access to loan modification programs, a request to place all applications on the Internet for greater transparency, and a request for data collection to include race and ethnicity, and re-default rates.

May 14, 2009

- After considering the comments received from the interested parties, the emergency regulations were revised and released to the interested parties for a second opportunity for comment (the 5-day notice period under the Administrative Procedure Act). The Departments received a few comments for further clarification. After reviewing and considering these changes, the regulations were revised to include some of the comments provided by the interested parties.

May 21, 2009

- The emergency regulations were filed with the Office of Administrative Law (OAL).

June 1, 2009

- With minor changes, the OAL approved the emergency regulations and filed them with the Secretary of State.

June 15, 2009

- The law became operative.

Subsequent to the adoption of emergency regulations, each Department proceeded with adopting permanent regulations. Currently all of the Departments have permanent regulations in place.

Provisions of the CFPA

Upon the operative date of the CFPA, emergency regulations had been adopted and the Departments began receiving applications for exemptions under the act. The CFPA changed existing law to add 90 days to the nonjudicial foreclosure process for certain owner-occupied properties. The additional 90 days is applicable to first deeds of trust made from 2003 to 2007. However, a servicer may have its loans exempted from the additional 90 days if the servicer receives an order of exemption from one of the Departments.

The Departments may issue an exemption order that would exempt a servicer's loans from the additional 90 days if the servicer is able to demonstrate that it has implemented a comprehensive loan modification program that meets the minimum requirements of the CFPA. A servicer that modifies loans in conformance with the federal Home Affordable Modification Program (HAMP) Guidelines issued by the US Department of Treasury meets the requirements for establishing a comprehensive loan modification program under the CFPA. For all other servicers, the requirements of the CFPA are provided below.

Requirements of the CFPA

In order to meet all the requirements of the CFPA, a loan modification program must have all of the following features:

- The loan modification program must be intended to keep borrowers, whose principal residences are homes located in California, in those homes when the anticipated recovery under the loan modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis.
- The loan modification program targets a ratio of the borrower's housing-related debt to the borrower's gross income of 38% or less, on an aggregate basis in the program.
- The loan modification program includes at least two of the following features:
    - An interest rate reduction, as needed, for a fixed term of at least five years.
    - An extension of the amortization period for the loan term, to no more than 40 years from the original date of the loan.
    - Deferral of some portion of the principal amount of the unpaid principal balance until maturity of the loan.
    - Reduction of principal.

    - Compliance with a federally mandated loan modification program.
    - Other factors that the Commissioner determines are appropriate. In determining those factors, the Commissioner may consider efforts implemented in other jurisdictions that have resulted in a reduction in foreclosures.
- When determining a loan modification solution for a borrower under the loan modification program, the servicer seeks to achieve long-term sustainability for the borrower.

Eligible Borrowers and Loans

In order to receive an exemption, the applicant's comprehensive loan modification program must be available to an eligible borrower and residential mortgage as defined by the CFPA. At a minimum, the loan modification program must be available for borrowers and loans meeting the following eligibility requirements:

- The loan was made between January 1, 2003 and January 1, 2008.
- The borrower lives in the property.
- The loan is in default.
- The loan is a first lien on property in California.
- The borrower can document the ability to pay the modified loan.
- The borrower has not surrendered the property, the borrower is not engaged in a bankruptcy proceeding, and the borrower has not contracted to delay the foreclosure process while intending to leave the property.

The CFPA requires the loan modification program to be made available to all persons and loans meeting the eligibility requirements, as defined above, who contact their servicer to notify the servicer of a financial hardship or to request a loan modification. Whereas existing law requires servicers to contact borrowers at least 30 days prior to filing a notice of default, the CFPA requires the contact to include information regarding the servicer's comprehensive loan modification program.

Related Federal Programs

Many lenders are participating in federal loan refinancing programs such as the-Hope for Homeowners Program (HHP) or the Home Affordable Refinance Program (HARP). While not loan modification programs, the Departments clarified that participation in either of these programs meets the minimum requirements of a comprehensive loan modification program and, therefore, qualifies for an exemption. This recognition of the federal

programs was intended to clarify that lenders and servicers may continue participating in those programs even for borrowers meeting the minimum eligibility requirements for loan modifications under the CFPA.

Achieving Long-Term Sustainability

Among the requirements for the CFPA is that the loan modification solution being considered for a borrower must seek to achieve long-term sustainability. The characteristics that are presumed to constitute long-term sustainability include the following:

- The modification reduces a borrower's monthly payment for at least 5 years,
- The modification results in a housing-related debt to income ratio of 38% or less,
- After a modification, the borrower's back-end debt-to-income ratio is equal to or less than 55%,
- The borrower is current under the terms of a modified loan at the end of a three month period, or
- The modification is in accordance with a federal program.

Additional Program Requirements

Other requirements that a servicer's loan modification program must meet to receive an exemption include:

- All eligible borrowers and loans must be considered for modification under the plan unless an applicable pooling and servicing agreement prohibits the modification.
- A servicer must use reasonable efforts to remove any prohibitions and obtain waivers or approvals from all necessary parties, including junior lien holders and investors.
- A servicer must act on a loan modification request within a reasonable time period, must have procedures in place to ensure that delays in the process not caused by a borrower do not adversely impact a borrower in the loan modification or foreclosure process, and must acknowledge receipt of a loan modification request.
- A servicer may deny a loan modification request when a borrower abandons or unduly delays the process. Prior to denying the modification request, a servicer must notify the borrower in writing of the time period to respond and the consequence of failing to respond in a reasonable time.
- A comprehensive loan modification program may include foreclosure alternatives for borrowers who do not qualify for a loan modification program.

- A servicer is not required to modify a loan more than once.
- A servicer is prohibited from changing its loan modification program after a final order is issued unless the lender informs the Commissioner that issued the order of the change. A change to a federal program does not constitute a change to a comprehensive loan modification program and does not require notice to the Commissioner.

Implementation

In June of 2009, the Departments sent notifications to interested parties and all licensees under the various residential mortgage lending and servicing laws administered by the Departments. The notifications informed them of the new requirements under the CFPA and explained the procedures for applying for an exemption from the provisions of the CFPA. The provisions of the CFPA require that any entity servicing residential mortgage loans on properties located in California that seeks to obtain an exemption, and is not required to file with the DFI and DRE, must submit a request for an exemption to the DOC.

The applications were submitted electronically or by mail. To prepare for the receipt of applications, the Departments issued a Request for Proposal to solicit bids for an information technology solution. After receiving the bids, the Departments determined that the process was cost prohibitive, and instead developed application processing solutions internally. DOC developed a fillable application to be used by applicants seeking to request an exemption from the provisions of the CFPA. In order to maintain consistency among the Departments, the application was utilized by both DFI and DRE. In addition, the Departments coordinated on other procedures to receive and review the applications. Each Department posted a link to the other Departments' websites.

When an application is received, the application is reviewed to determine whether the submission is substantially complete. An application is considered substantially complete if the applicant responds to all the applicable questions. Once a determination is made that the application is substantially complete, a temporary order of exemption is immediately issued and the applicant is notified of the issuance of a temporary order. The applicant is placed on a list of entities that have been issued temporary orders that is posted on the Department's website. The list includes the date the temporary order was issued. The issuance of the temporary order and posting to the website is completed within one to two days of receipt of the application. If the application is not substantially complete, the Department notifies the applicant of the deficiencies and does not issue a temporary order. The applicant may correct the deficiencies and continue to seek the temporary exemption.

Within 30 days of receipt of the initial application or revised application, the Departments are required to either issue a final order of exemption or deny the application. The application, including a copy of the loan modification program and supporting documentation, is reviewed to determine if the applicant's loan modification program meets the provisions of the CFPA. The applicant is notified if the review identifies deficiencies in the applicant's loan modification program that need correction before a determination of compliance with the CFPA can be made. If the applicant is unable or unwilling to make the necessary changes to its loan modification program or to submit

necessary documents needed to determine compliance with the CFPA, the Departments are required to deny the application. However, upon denial of the application, the Departments must notify the applicant in writing and the temporary order remains in effect for 30 days following the denial.

Once all corrections are made and any required documentation is submitted and found to be acceptable, the Departments issue a final order exempting the applicant from the provisions of CFPA. The exemption means that the applicant is not required to add an additional 90 days to its foreclosure process. After receipt of a final order, the servicer is prohibited from modifying its loan modification program unless the servicer informs its respective Commissioner of the change. Due to the short time period for the temporary order, the exemption process is fairly quick for the applicants and even more streamlined for applicants that are already participating in a federal loan modification program.

The CFPA provides that loans refinanced in accordance with the Hope for Homeowners Program (HHP) or the Home Affordable Refinance Program (HARP) meet the minimum requirements of the CFPA. While loan workouts under these federal programs constitute refinancing rather than modifications, the recognition of the federal programs was intended to clarify that entities may continue participating in those programs even for borrowers meeting the minimum eligibility requirements for the modifications under the CFPA.

For companies participating in the federally sponsored Home Affordable Modification Program, (HAMP), the application process is significantly streamlined. Commercial or industrial banks, savings associations and credit unions that adopt a comprehensive loan modification program in substantial conformance with HAMP guidelines are not required to submit any further information regarding their program. Other applicants that indicate that they are participating in HAMP, are required to submit a copy of the Servicer Participation Agreement for HAMP under the Emergency Economic Stabilization Act of 2008, as evidence of their participation. Applicants that indicate they are following HAMP guidelines, but have not entered into a Servicer Participation Agreement, are treated the same as companies not following HAMP and are required to complete the entire application, including submitting a copy of their loan modification program. Nevertheless, a program that modifies loans in accordance with HAMP meets the standards for a comprehensive loan modification program, and applicants are not required to comply with additional requirements to obtain an exemption.

The CFPA requires the Departments to collect from some or all servicers data regarding loan modifications accomplished pursuant to the CFPA. For purposes of reporting, a loan modification was defined as a written agreement between the borrower and the lender to alter one or more of the terms of the original agreement. A modification may consist of a reduction in the interest rate, capitalization of delinquent payments, extension of the duration of the note, conversion of the repayment terms from ARM to Fixed or vice versa, reduction in principal, monthly payment less than payment prior to modification, deferral of principal until maturity and other features. The Departments request servicers that have obtained an exemption under the CFPA to submit detailed information

regarding their modification programs and the results of their efforts. The surveys include information about the type of modifications that are made, the number of loans modified, the number of modification requests declined, and many other categories of information. The information assists the Departments in assessing whether the servicers' loan modification programs are helping homeowners to stay in their properties. Servicers that receive a final exemption order, upon request of the Commissioner, must complete these surveys regarding their mortgage loan modification data quarterly, beginning within 90 days of receipt of the order.

Data and Observations

Exemption Application Data

The following data shows how many applications for an order of exemption each Department received from servicers. In addition, it indicates how many of those applicants received a temporary or permanent exemption, received a denial of the exemption, withdrew an application, or still has an application pending consideration.

Department of Corporations Data and Observations

The following is a summary of the applications for orders of exemption filed with the Department of Corporations (DOC).

	As of September 15, 2009	As of November 23, 2010
Number of applications received	67	79
Number of applications that received the 30-day temporary exemption	62	70
Number of applications approved with final exemption	57	64
Number of applications denied	8	15
Number of applications withdrawn	1	2
Number of pending applications	3	0

Of the total number of applications received, 54 are DOC licensees, 19 are regulated by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, and six are individuals or entities exempt or not required to be licensed by any state or federal agency (not in the business of lending). Of the total number of applications denied, nine are DOC licensees, one is regulated by the Office of Thrift Supervision and five are unlicensed individuals or entities. Two of the fifteen applicants denied exemptions subsequently corrected deficiencies and obtained a final exemption order. These two are included in the count for both categories. Two applicants withdrew their applications because they did not service loans.

A full list of licensees who have been granted an exemption by the Department of Corporations is located in Appendix A.

Department of Real Estate Data and Observations

The following is a summary of the applications for exemption filed with the Department of Real Estate (DRE).

	As of September 15, 2009	As of November 2, 2010
Number of applications received	19	27
Number of applications that received the 30-day temporary exemption	10	16
Number of applications approved with final exemption	9	14
Number of applications denied	1	2
Number of applications withdrawn	9	10
Number of pending applications	0	1

Of the ten applications withdrawn, three were licensed and servicing loans under DOC, one was licensed by DFI, two were unlicensed LLCs, one was an unlicensed hard money lender, and three DRE licensees withdrew because at the time their application was being reviewed they no longer wanted to pursue an exemption from the CFPA. Of the fourteen licensees who obtained a Final Order of Exemption, only four licensees indicated they were participating in a federally sponsored loan modification program (HAMP), while the other ten established their own individual programs in compliance with the CFPA.

A full list of licensees who have been granted an exemption by the Department of Real Estate is located in Appendix A.

Department of Financial Institutions Data and Observations

The following is a summary of the applications for exemption filed with the Department of Financial Institutions (DFI).

	September 15, 2010	November 3, 2010
Number of applications received	34	43

Number of applications that received the 30-day temporary exemption	34	43
Number of applications approved with final exemption	33	42
Number of applications denied	0	1
Number of applications withdrawn	0	4
Number of pending applications	1	1
Number of active exemptions		39

Of the total number of applications received, 29 are DFI credit union licensees, one is regulated by the Office of the Comptroller of the Currency, one is regulated by the Office of Thrift Supervision, seven are credit unions regulated by National Credit Union Administration, one is an other state licensed bank and one is an other state licensed credit union. In sum, 37 of the applications submitted came from state or federally chartered credit unions. As most, if not all of the applicants have federal oversight as well as state regulation, many applicants adopted or directly participated in federal mortgage loan modification programs or guidelines that are similar to the requirements of the CFPA.

A full list of licensees who have been granted an exemption by the Department of Financial Institutions is located in Appendix A.

Observations across the Departments

The charts above highlight that the Departments received fewer applications than anticipated initially. However, for the DOC, the applicants included some of the largest mortgage lenders licensed by DOC. The 28 California Residential Mortgage Lending Act (CRMLA) companies that received exemptions handled 65.5% of the total amount of CRMLA servicing in 2008. Some licensees indicate that they may want the additional 90 days in the foreclosure process because they are not interested in taking possession of non-performing properties. Thus they have not applied for the exemption. For smaller licensees the reluctance to obtaining the exemption may be that the establishment of the conforming program is potentially costly and time consuming, and they do not have a significant number of loans or loans that are distressed, so they have opted not to apply.

The CFPA requires the Departments to submit reports to the Legislature three months after implementation and every six months thereafter, regarding the implementation of the act. The reports were combined to form a comprehensive report from the Departments with details about the licensees' loan modification programs. The summary of data included in the comprehensive report is based on information derived from quarterly surveys that were sent to all servicers granted exemptions to gather statistical information about their loan modification programs and their results.

Common Deficiencies in Applications

Of the 149 applications submitted to the departments for exemption orders the following common deficiencies are noted:

- Application submitted is not proper and/or complete.
- Application is submitted with no loan modification program currently in place.
- Loan modification program fails to meet the requirements of the CFPA.
- Notice of Sale form not in compliance with the CFPA.

Mortgage Loan Survey Data

The following data shows the types of mortgage loans that the servicers receiving exemptions held in their loan portfolios.[1] In addition, the data provides related information regarding subsequent loan modifications and foreclosures that occurred during the period of June 15, 2009 through September 30, 2010, based on information collected by the Departments through the Mortgage Loan Survey. A complete summary of the compiled data is located in Appendix B. There were significant variances in the entities that reported information during each quarter and in each entity's interpretation of what data was being solicited in the individual categories, which caused inconsistencies in the data.

Residential Mortgage Loan Portfolio:

Residential Mortgage Loan Portfolio	Quarter Ending 9/30/2009	Quarter Ending 12/31/2009	Quarter Ending 3/31/2010	Quarter Ending 6/30/2010	Quarter Ending 9/30/2010
By Product	**Units**	**Units**	**Units**	**Units**	**Units**
FHA	37,877	45,099	47,117	49,781	52,088
VA	7,880	9,941	10,802	12,022	13,631
Conforming Conventional	644,445	686,814	680,680	684,278	675,721
Prime (Non-conforming - Jumbo)	483,323	488,129	480,386	472,588	466,152
Alt-A	242,182	237,040	227,479	221,102	205,280
Subprime	548,903	535,144	502,664	482,278	460,746
Home Equity (non-subprime)	110,647	98,336	93,641	88,962	81,891
Conforming Conventional	227,649	232,353	231,150	239,676	233,259
HLTV	93,126	97,415	92,685	87,365	84,393
Manufactured Housing	56,134	64,834	69,298	71,273	72,986
Other	31,672	36,504	30,761	29,494	27,719
Total	2,483,838	2,531,609	2,466,663	2,438,819	2,373,866

Residential Mortgage Loan Portfolio	Quarter Ending 9/30/2009	Quarter Ending 12/31/2009	Quarter Ending 3/31/2010	Quarter Ending 6/30/2010	Quarter Ending 9/30/2010
By Product	***UPB ($MM)**	**UPB ($MM)**	**UPB ($MM)**	**UPB ($MM)**	**UPB ($MM)**
FHA	$7,442	$10,412	$10,934	$11,615	$46,917

[1] The data in the charts contains information reported by the entities responding to the Departments of Real Estate and Corporations' surveys.

VA	$1,689	$2,211	$2,464	$2,820	$3,290
Conforming Conventional	$177,522	$184,302	$181,718	$181,390	$178,558
Prime (Non-conforming - Jumbo)	$123,882	$127,792	$125,332	$123,188	$121,889
Alt-A	$89,098	$86,534	$82,729	$81,413	$76,240
Subprime	$121,080	$419,561	$252,871	$558,182	$387,477
Home Equity (non-subprime)	$8,953	$7,980	$7,550	$7,139	$6,574
Conforming Conventional	$21,300	$21,600	$21,445	$22,049	$20,632
HLTV	$5,572	$5,882	$5,621	$5,269	$5,410
Manufactured Housing	$5,113	$5,788	$6,105	$6,264	$6,371
Other	$7,054	$7,529	$7,246	$7,386	$6,911
Total	$568,705	$879,591	$704,016	$1,006,716	$860,270

Delinquency Status of Portfolio:

Delinquency Status of Portfolio (Quarter End)	Quarter Ending 9/30/2009 Total	Quarter Ending 12/31/2009 Total	Quarter Ending 3/31/2010 Total	Quarter Ending 6/30/2010 Total	Quarter Ending 9/30/2010 Total
30 to < 60 Days Delinquent Accounts (# Units)	101,740	94,774	80,350	81,353	80,877
60 to < 90 Days Delinquent Accounts (# Units)	63,604	57,507	45,429	41,996	40,007
90 to < 120 Days Delinquent Accounts (# Units)	43,829	42,861	39,988	27,428	24,469
120 + Days Delinquent Accounts (# Units)	208,439	242,763	223,340	205,671	178,216
Loans in foreclosure @ quarter end (# Units)	128,474	127,725	120,239	116,127	110,858
Loans referred to foreclosure this period (# Units)	57,562	51,213	50,737	44,813	36,614

- Since September 30,2009, the number of loans delinquent 30 days to less than 60 days has decreased 21%.

- Loans that are 60 days to less than 120 days delinquent have also decreased. Loans that are more than 120 days delinquent have decreased as well, however, it is consistently the most voluminous category.

- The number of loans that are either in foreclosure or that have been referred by a lender or servicer for foreclosure have both decreased. However, it should be noted that once a loan has entered loss mitigation, it is no longer considered to be a “delinquent” loan, and is not accounted for in this data.

Loss Mitigation:

Loss Mitigation	Quarter Ending 9/30/2009 Total	Quarter Ending 12/31/2009 Total	Quarter Ending 3/31/2010 Total	Quarter Ending 6/30/2010 Total	Quarter Ending 9/30/2010 Total
Loss Mitigation - Accounts per FTE (Full Time Employee)					
Number of Workouts Initiated per Quarter (# Units)	307,146	292,629	229,482	206,579	184,855
6a) Prime Number of Workouts Initiated per Quarter (# Units)	80,912	90,100	74,758	58,149	49,245
6b) Alt-A Number of Workouts Initiated per Quarter (# Units)	70,644	67,304	49,995	43,018	34,351
6c) Subprime Number of Workouts Initiated per Quarter (# Units)	155,590	135,225	104,729	105,412	101,259
Number of Workouts Closed per Quarter (# Units)	137,514	116,084	115,232	101,814	83,321
7a) Prime Number of Workouts Closed per Quarter (# Units)	36,160	31,275	29,891	29,377	24,292
7b) Alt-A Number of Workouts Closed per Quarter (# Units)	23,641	20,035	19,411	18,418	16,697
7c) Subprime Number of Workouts Closed per Quarter (# Units)	77,713	64,774	65,930	54,019	42,332

Workouts Closed by Type:

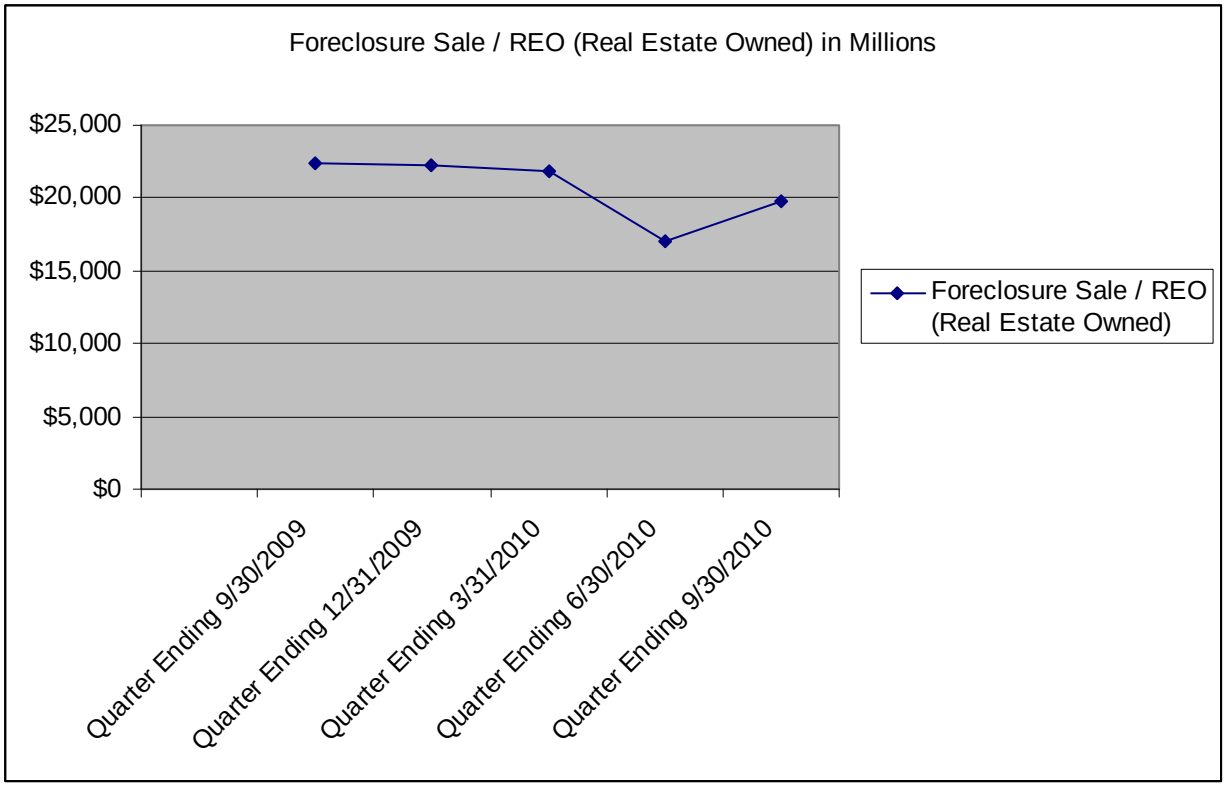
Workouts Closed By Type	Quarter Ending 9/30/2009 Units	Quarter Ending 12/31/2009 Units	Quarter Ending 3/31/2010 Units	Quarter Ending 6/30/2010 Units	Quarter Ending 9/30/2010 Units
Account Paid Current	6,291	4,703	5,002	5,204	4,472
Deed-in-lieu	79	53	87	105	122
Short Sale	12,225	12,316	10,012	11,565	10,262
Paid-in-Full	5,979	4,788	4,115	4,196	3,323
HAMP Trial Loan Modification	28,165	31,890	27,537	15,805	9,127

Non-HAMP Trial Loan Modification	32,073	11,115	10,817	10,169	6,935
HAMP Permanent Loan Modification	1,433	7,381	20,101	17,295	14,788
Non-HAMP Permanent Loan Modification	26,893	21,024	18,773	21,124	22,199
Repayment Plan/Forebearance Plan	14,808	17,291	13,135	10,842	8,357
Other Loss Mitigation (Note Sale, Third Party Sale, etc.)	9,568	5,523	5,653	5,509	3,736
Total	137,514	116,084	115,232	101,814	83,321

- The number of workouts closed:
  - by accounts being paid current varied between 4.05% and 5.37% from September 30, 2009 to September 30, 2010;
  - with deeds-in-lieu ranged from .05% to .15% ending at the high end;
  - by loans being paid-in-full ranged from a low of 3.57% to a high of 4.35%;
  - with HAMP Trial Loan Modifications ranged from a low of 10.95% to a high of 27.47%;
  - with Non-HAMP Trial Loan Modifications ranged from a low of 8.32% in the last quarter to a high of 23.32% in the first quarter;
  - with HAMP permanent loan modifications ranged from a low of 1.04% in the first quarter to a high of 17.75% in the last quarter;
  - with Non-HAMP Permanent Loan Modifications ranged from a low of 16.29% in the third quarter to a high of 26.64% in the last quarter;
  - with repayment or forbearance plans ranged from a low of 10.03% in the last quarter to a high of 14.90% in the second quarter, with a slow decline in the use of such plans thereafter;
- The number of short sales varied from 8.69% to 12.32% ending at the high end.
- The closure of workouts by other loss mitigation methods such as note sales, and third party sales ranged from a low of 4.48% in the last quarter to a high of 6.96% in the first quarter.

In the quarter ending September 30, 2009, the majority of workouts were closed using HAMP Trial Loan Modifications and Non-HAMP Trial Loan Modifications. In the quarter ending December 31, 2009, the majority of workouts were closed using HAMP Trial Loan Modifications and Non-HAMP Permanent Loan Modifications. During the quarter ending March 31, 2010, the majority of workouts were closed using HAMP Trial Loan Modifications and HAMP Permanent Loan Modifications. In the quarter ending September 30, 2010, the majority of workouts were closed using Non-HAMP Permanent Loan Modifications and HAMP Permanent Loan Modifications.

Foreclosure Sale/Real Estate Owned (REO):



Loan Modification Features:

Loan Modification Features	Quarter Ending 9/30/2009 Total	Quarter Ending 12/31/2009 Total	Quarter Ending 3/31/2010 Total	Quarter Ending 6/30/2010 Total	Quarter Ending 9/30/2010 Total
Interest Rate Reduction 5 Years or Greater	23	5	0	0	10
Extension of Terms No More Than 40 Years	17,114	13,265	16,194	17,321	18,970
Deferral of Principal Until Maturity	3,595	4,112	8,298	7,933	6,264
Reduction of Principal	14,893	12,238	13,271	9,585	10,945
Monthly Payment Less Than Payment Prior to Modification	22,414	17,105	23,838	24,627	25,749
Other Features	3,630	4,979	6,627	6,201	6,212

- During the timeframe in which data was obtained from the surveys, the number of modifications reported increased from about 28,000 to over 38,000 each quarter, totaling over 171,000 modifications for that timeframe.

- Of the total number of modifications reported during this timeframe, the vast majority, averaging over 22,000 each quarter, and totaling 113,733, reflected monthly payment reductions to borrowers to less than the payment prior to the modification, the most effective type of modification as reflected in the OCC data[2].
- Modifications that extended the terms of the loan to no more than 40 years was the next largest category of modifications, with about 13,000-19,000 occurring each quarter, for a total of 82,864.
- Additionally, about 9,500-15,000 modifications quarterly reflected principal reductions, totaling 60,932.
- The deferring of principal until maturity and other features were used in about the same number of modifications, averaging about 6,000 each.
- One other category that reflects lower monthly payments by borrowers, which reduces interest rates, was the smallest category of modifications, being used only in 38 instances.
- Overall, more than two thirds of all modifications during the entire period exhibit reductions in monthly payments for borrowers.

Housing Related Debt Ratios:

	Quarter Ending 9/30/2009		Quarter Ending 12/31/2009		Quarter Ending 3/31/2010		Quarter Ending 6/30/2010		Quarter Ending 9/30/2010	
Housing Related Debt Ratios	**38% or Less**	**Over 38%**	**38% or Less**	**Over 38%**	**38% or Less**	**Over 38%**	**38% or Less**	**Over 38%**	**38% or Less**	**Over 38%**
Loans Prior to Modifications	2,066	4,361	3,868	6,578	3,787	7,806	4,539	8,895	5,165	6,581
Loans After Modifications	5,196	873	8,838	1,063	9,964	1,591	10,669	1,977	9,304	1,890
Workouts Not Resulting in Modifications	21	25	208	69	121	74	138	55	347	229

Subsequent Defaults on Loan Modifications

	Quarter Ending 9/30/2009	Quarter Ending 12/31/2009	Quarter Ending 3/31/2010	Quarter Ending 6/30/2010	Quarter Ending 9/30/2010
Subsequent Defaults on Loan Modifications	**Total**	**Total**	**Total**	**Total**	**Total**
During Trial Period	8,717	11,206	8,717	10,543	6,252
Within 6 Months of Modification	9,064	10,268	10,528	11,157	11,605
Within 12 Months of Modification	11,298	14,553	14,385	13,360	14,751
Within 18 Months of Modification	7,085	9,171	14,373	16,611	16,664

[2] OCC and OTS Mortgage Metrics Report, Disclosure of National Banks and Federal Thrift Mortgage Loan Data, First Quarter 2010, Office of the Comptroller of the Currency, Office of Thrift Supervision, Washington, D.C., June 2010.

Reasons for Declining Modifications

Reasons for Declining Modifications	Quarter Ending 9/30/2009 Total	Quarter Ending 12/31/2009 Total	Quarter Ending 3/31/2010 Total	Quarter Ending 6/30/2010 Total	Quarter Ending 9/30/2010 Total
Total Modifications Declined	31,515	27,686	42,977	39,818	32,443
Borrower or loan did not meet eligibility requirements	6,456	3,533	5,582	4,388	4,063
Unable to document hardship	1,097	1,267	1,525	3,502	2,789
Subordinate lien holder unwilling to subordinate to modified loan	24	120	15	10	8
Not Affordable (Unable to Pay)	1,966	1,600	1,799	2,086	1,147
Anticipated recovery from foreclosure exceeds that from modification	1,342	1,363	943	1,186	1,151
Pooling Servicing Agreement or other contract prevented modification	1,627	581	392	454	509
Other	19,003	19,222	32,721	28,192	22,776

The most common reasons for declining modifications were the borrower or loan did not meet the eligibility requirements and "other" reasons. The least common reasons for declining modifications were the subordinate lien holders being unwilling to subordinate to modified loans and pooling servicing agreements or other contracts that prevented modifications.

Survey Data Discrepancies

The data collected by the Departments over the five reporting quarters[3] is inconsistent and difficult to draw trends from because the lenders and servicers reporting the information were uncertain how to report their loans and modifications initially, the composition of the companies vary by quarter, different companies have reported during different quarters and some have discontinued reporting. For instance, in the first quarter survey 34 companies reported their data to the DOC and in the last quarter survey 37 companies reported their data to the DOC. The data acquired by DFI from its licensees was inconsistent and is not included with the DOC and DRE[4] data. Since the DFI data only represents a small amount of companies in comparison to DOC and DRE's data, its exclusion from the rest of the data does not have a substantial impact on the overall loan modification data derived from the CFPA surveys. However, DFI's completed data is included in Appendix B. Additionally, the DOC and DRE data provides a fair representation of how the CFPA impacted distressed mortgages since its implementation.

[3] The Department of Financial Institutions obtained data from its servicers for four quarters, through June 30, 2010.
[4] The Department of Real Estate's data is statistically insignificant and was therefore combined with the Department of Corporations' data.

Highlights of Mortgage Loan Survey Data

A key goal of the California Foreclosure Prevention Act (CFPA) was to encourage all servicers that issued mortgage loans in California to establish a loan modification program meeting minimum requirements to help distressed borrowers avoid foreclosure. While it is not clear whether the goal of the CFPA was reached, the data demonstrates improved circumstances for a substantial number of borrowers.

During the timeframe in which data was obtained from the surveys, the number of modifications reported increased from about 28,000 to over 38,000 each quarter, totaling over 171,000 modifications for that timeframe. Of the total number of modifications reported during this timeframe, the vast majority, 113,733 with an average of over 22,000 each quarter, reflected monthly payment reductions to borrowers to less than the payment prior to the modification, the most effective type of modification as reflected in the OCC data.[5] Modifications that extended the terms of the loan to no more than 40 years was the next largest category of modifications, with about 13,000 to 19,000 occurring each quarter, for a total of 82,864. Additionally, about 9,500 to 15,000 modifications quarterly reflected principal reductions, totaling 60,932. The deferring of principal until maturity and other features were used in about the same number of modifications, averaging about 6,000 each. One other category that reflects lower monthly payments by borrowers, a reduction of interest rate for 5 or more years, was the smallest category of modifications, being used only in 38 instances. Overall, two-thirds of all modifications during these quarters exhibit reductions in monthly payments for borrowers. Of the over 171,000 modifications reported in the surveys, nearly 114,000 lowered payments for borrowers.

The main reasons for modifications being declined in this time period were the borrower or loan did not meet eligibility requirements, the borrower was unable to document hardship, and the borrower was unable to pay, as well as “other” reasons not enumerated. In all quarters, the number of housing related debt ratios over 38% were substantially reduced once loans were modified. As a result, the number of housing related debt ratios of 38% or less increased substantially after loans were modified.

[End of Report]

[5] OCC and OTS Mortgage Metrics Report, Disclosure of National Banks and Federal Thrift Mortgage Loan Data, First Quarter 2010, Office of the Comptroller of the Currency, Office of Thrift Supervision, Washington, D.C., June 2010.