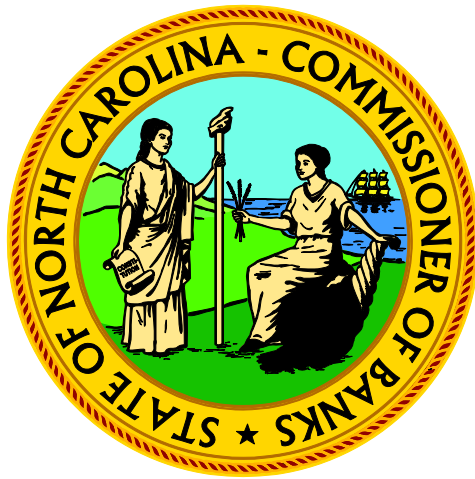


The Emergency Program to Reduce Home Foreclosures



**Report to the General Assembly
May 1, 2009**

Executive Summary

In July 2008, the General Assembly enacted an emergency program to reduce foreclosures on subprime loans, the primary driver of increased foreclosures in recent years. The legislation requires mortgage servicing companies to provide both homeowners with subprime loans and the State an early warning notice forty-five (45) days prior to the filing of the foreclosure. The legislation also designates the Office of the Commissioner of Banks (NCCOB) to design, create, and implement a program (the State Home Foreclosure Prevention Project or “Foreclosure Project”) to reach these homeowners and make efforts to prevent foreclosures where possible. The legislation further required the State Banking Commission to allocate one million dollars (\$1 million) to the Foreclosure Project, with most of that funding designated for capacity building grants to housing counseling agencies.

NCCOB, in collaboration with a broad partnership of mortgage servicers, housing counselors, state agencies, non-profits, and legal service providers, began the Foreclosure Project in October 2008. The results in the first six months of operation have demonstrated the value of State involvement in foreclosure prevention.

Key Highlights:

- At least 523 foreclosures have been prevented to date. NCCOB has reason to believe the actual number of foreclosures prevented is higher.
- Surrounding neighbors have avoided an estimated \$8.7 million in lost property values by the successful prevention of foreclosures.
- Investors have avoided an estimated \$36.6 million in losses that would have occurred if these loans had entered foreclosure.
- NCCOB has sent over 57,000 letters to homeowners to inform them of resources available to prevent foreclosure.
- Over 9,400 homeowners have spoken with our toll-free call center, operated by Connectinc., a non-profit partner in Rocky Mount.
- More than 2,800 homeowners have received in-person, free foreclosure prevention counseling from one of 30 local non-profit housing counseling agencies.
- Over 400 subprime loans have been screened by volunteer lawyers, law students, and paralegals for potential violations of lending laws. NCCOB is working with legal service providers to ensure homeowners with clear violations of law are able to have those violations remedied to avoid foreclosure.
- Housing counseling agencies have added the equivalent of 27 full-time staff members to assist in foreclosure prevention, as a result of \$2.6 million in grants by NCCOB and Bank of America. NC Housing Finance Agency has also secured an additional \$2.5 million to fund the provision of foreclosure prevention services to struggling homeowners.
- The State Banking Commission allocated \$1.5 million for this project, and NCCOB has added 8 full-time staff to assist counselors, servicers, and homeowners in avoiding foreclosures.
- The Foreclosure Project database was developed on time and has operated reliably. NCCOB continues to develop improvements to increase efficiency of database system, in collaboration with the Administrative Office of the Courts.

NCCOB and its partners are still working to improve the program effectiveness, scale, and reach and to overcome barriers to foreclosure prevention. Major barriers to foreclosure prevention on subprime loans continue to be:

- difficulty in establishing effective and efficient communication between homeowners, counselors and mortgage servicers;
- long wait times for processing requests for assistance at some major servicers;
- loan work-out offers that do not create sustainable mortgage payments;
- limited resources to counsel homeowners and to follow-up to ensure foreclosure prevention efforts are successfully completed; and
- reaching homeowners and helping them stay on track with the program.

In addition to these expected challenges for subprime loans, the unprecedented economic decline has increased foreclosure pressures on mortgage loans generally. Weak home values and rising unemployment are associated with increases in foreclosures, and recent data indicates that the foreclosure problem is shifting somewhat from one of unaffordability of poorly-underwritten subprime loans to one of delinquency and default due to the economic recession. While the Foreclosure Project was not intended to address foreclosures driven by these challenges, NCCOB is working with its partners to identify opportunities to build on our program to assist homeowners in those situations.

Introduction

This report is submitted pursuant to the Emergency Program to Reduce Home Foreclosures Act (the “Emergency Foreclosure Act” or the “Act”).¹ In July 2008, the General Assembly enacted the Emergency Foreclosure Act as a result of finding a substantial increase in mortgage foreclosures due to the national subprime mortgage crisis and a determination that the State should undertake every effort to bring borrowers and lenders together to avoid foreclosure where possible.

The Emergency Foreclosure Act requires mortgage servicing companies to take certain steps to notify North Carolina homeowners with subprime loans² and the State of an impending foreclosure filing, and authorizes the Commissioner of Banks to develop a program to seek solutions to avoid foreclosure on those loans. In addition, the Emergency Foreclosure Act requires the Commissioner to make grants to nonprofit counseling agencies from funds available to the State Banking Commission and to allocate other Commission funds to the development of the program. The Act required the Commissioner to report on the nonprofit counseling grants to the Joint Legislative Commission on Governmental Operations (“Gov-Ops Committee”) by February 15, 2009 and requires the Commissioner to report to the General Assembly no later than May 1st of each year until the amounts reserved under the program are disbursed. The Commissioner provided the first Foreclosure Project update to the Gov-Ops Committee and to the General Assembly on February 13, 2009, covering program implementation and activity from August 18, 2008 through January 31, 2009.³

The current report covers program activity through April 2009. The report outlines updates to the State Home Foreclosure Prevention Project (“Foreclosure Project”), including database enhancements, partners, and NCCOB staffing; highlights the goals and outcomes; shares homeowner case studies; and identifies the challenges facing the State in reducing foreclosures during this time of significant economic turmoil.

I. Infrastructure / Partnership Updates

A. Pre-foreclosure Database

The pre-foreclosure database developed by NCCOB is central to operation of the Foreclosure Project. The database not only enables servicers to file pre-foreclosure notices, but it also enables multiple partners to work together as a team to assist struggling homeowners. The database went live on October 1, 2008, as required by the statute, and has operated consistently and reliably over the first six months of operation. The NCCOB has continued to refine and improve the database

¹ Session Law 2008-226.

² “Subprime” loans are defined under the Emergency Foreclosure Act as loans originated between January 1, 2005 and December 30, 2007 which would have been covered by the “rate spread loan” statute passed in 2007. In general, the interest rate of a subprime loan during this period was above 8% at the time of origination. See Session Law 2007-352, s. 10.

³ A full copy of the original report can be found at <http://www.ncforeclosurehelp.org/global/docs/Report%20to%20Joint%20Legislative%20Commission%20on%20Governmental%20Operations%20--FINAL%20%20Feb%2013%202009.pdf>

functionality to streamline operations, enhance communication between partners, and provide real-time reporting of outcomes and performance.

B. Partnership Updates

The Foreclosure Project involves an extensive network of partners working together to prevent foreclosures.

1. Connectinc.: Connectinc. serves as the first point of contact for homeowners calling in response to NCCOB outreach efforts, connecting homeowners with the nearest housing counseling agency with capacity to serve their needs. Connectinc.'s participation is expanding to include follow-up with homeowners assisted by the project to track outcomes of the program and evaluate program success.
2. Housing counseling agencies: NCCOB initially selected 23 housing counseling agencies to provide foreclosure prevention counseling as part of the Foreclosure Project. Since launch, NCCOB has added seven additional agencies, increasing capacity in underserved areas of the state. The 30 participating agencies are listed in Appendix A. Additionally, the \$2.6 million in capacity building grants provided by NCCOB and Bank of America in recent months have led to equivalent of 26.5 new full-time staff to handle foreclosure-prevention counseling at participating agencies. We hope to see the impact of increasing partner agencies and staff capacity in the coming months, as new counselors complete required training.
3. Mortgage servicers: Over 120 mortgage servicers have submitted pre-foreclosure notices to the database. Since the last report, counselors and NCCOB staff have noted an improvement in the quality of loan modification offers. In addition, servicers have reduced data entry errors when filing pre-foreclosure notices and improved handling of communication problems identified on Foreclosure Project cases.
4. Legal network: NCCOB has partnered with a network of legal service providers to offer legal assistance to homeowners involved in the Foreclosure Project. As of April 29, 2009, volunteer attorneys, paralegals and law student trainees have reviewed 402 subprime loans for potential legal violations. NCCOB works with the legal services network to refer homeowners, when appropriate, to providers best able to assist homeowners to avoid foreclosures.
5. North Carolina Housing Finance Agency ("NCHFA"): NCHFA continues to be a close partner in the Foreclosure Project. Since the last report, NCHFA has secured an additional \$2.5 million in federal funding to support foreclosure prevention efforts. Of the \$2.5 million, \$1.9 million is designated to support counseling agencies in the provision of individual foreclosure prevention

counseling. The remaining \$600,000 supports the hiring of attorneys to assist homeowners with legal issues directly related to foreclosure, delinquency or short sale, and is coordinated with the Foreclosure Project.

C. NCCOB Staffing

The Emergency Foreclosure Act required that the State Banking Commission expend \$1 million on the Foreclosure Prevention Project in fiscal year 2008-2009, including the \$600,000 in grants to counselors. The State Banking Commission authorized the Commissioner to expend up to \$1.5 million on foreclosure prevention activities to implement this program. As of March 31, 2009, NCCOB had expended approximately \$1,150,000. Aside from grants to housing counseling agencies, the next largest expense of the program is staffing costs for eight time-limited or temporary staff added to implement the program. Projected spending through the end of the fiscal year is \$1.4 million.

II. **Goals and Outcomes**

A. Goals

NCCOB developed the Foreclosure Project with three goals:

1. *Reach struggling homeowners as soon as possible* and connect them with available resources, such as housing counselors, to avoid foreclosure. Research shows that in 50% of foreclosures, homeowners have no contact with their mortgage servicer. Mortgage servicers and housing counselors report that once in contact, at least two out of three homeowners are able to avoid foreclosure. The Foreclosure Project attempts to increase the number of homeowners taking action by reaching out early in the process and overcoming distrust of mortgage servicers.
2. *Improve communication between homeowners, counselors, and mortgage servicers.* The mortgage servicing system was not designed to handle the volume of homeowners needing assistance in avoiding foreclosure; as such, staffing and programs for foreclosure prevention have struggled to keep up with demand for foreclosure prevention assistance. Housing counseling agencies have not had adequate staff resources or training to meet the increased demand for foreclosure prevention counseling. Frustration and miscommunication between homeowners, counselors, and mortgage servicers created barriers that have limited foreclosure prevention opportunities. The Foreclosure Project uses database tools and NCCOB staff to break down these barriers and facilitate productive work-outs.

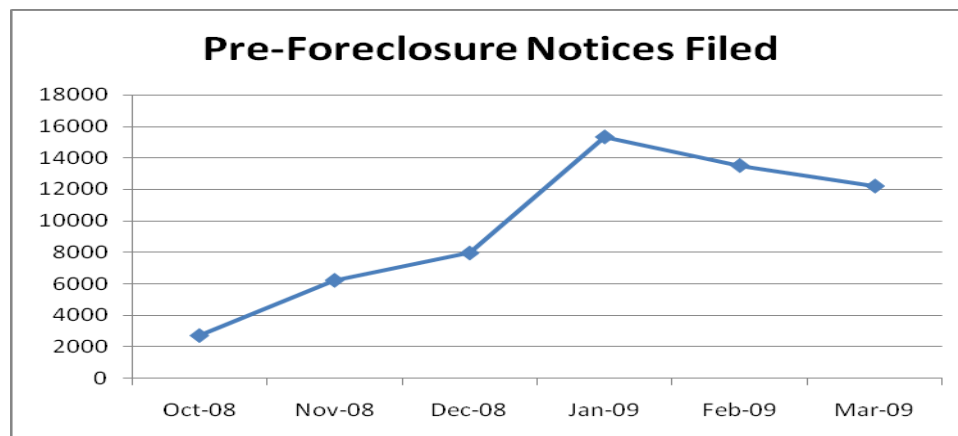
3. *Prevent foreclosure on subprime loans with material violations of law.* NCCOB has found that subprime loans originated between 2005 and 2007 have had a higher risk of material non-compliance with North Carolina and federal law. Remedying violations of law will improve foreclosure prevention opportunities for homeowners that otherwise would face foreclosure.

B. Outcomes

Pre-Foreclosure Notices Filed for Subprime Loans:

As of March 31, 2009, 57,873 pre-foreclosure notices on subprime loans have been filed in the database by 120 mortgage servicers. As shown in the chart below, the volume grew in the first four months of the program and has been on the decline for the past two months. Subprime filings dropped approximately 20% in the last two months.

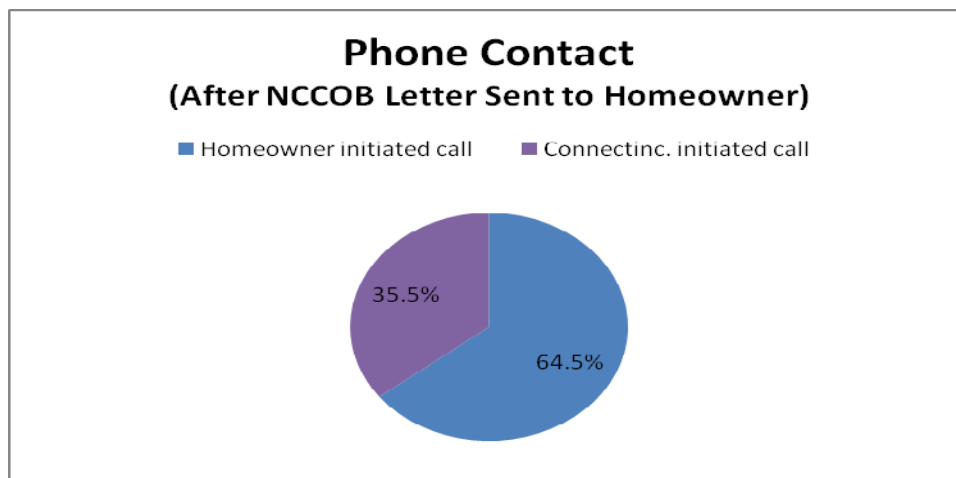
Chart 1: Subprime pre-foreclosure filings by month



Homeowner Contact, as a Result of Foreclosure Project:

After a pre-foreclosure filing has been entered in the database, a letter is sent from NCCOB to the homeowner urging them to make contact with our call center partner, Connectinc. Of the nearly 58,000 letters sent to date, 9,423 homeowners have spoken with Connectinc. regarding their situation. Of those homeowners, 6,079 homeowners contacted Connectinc. directly, while Connectinc. made contact with 3,344 homeowners through outbound follow-up calls, as shown below in Chart 2.

Chart 2: Method of Reaching Homeowner by Phone, After NCCOB Letter Sent



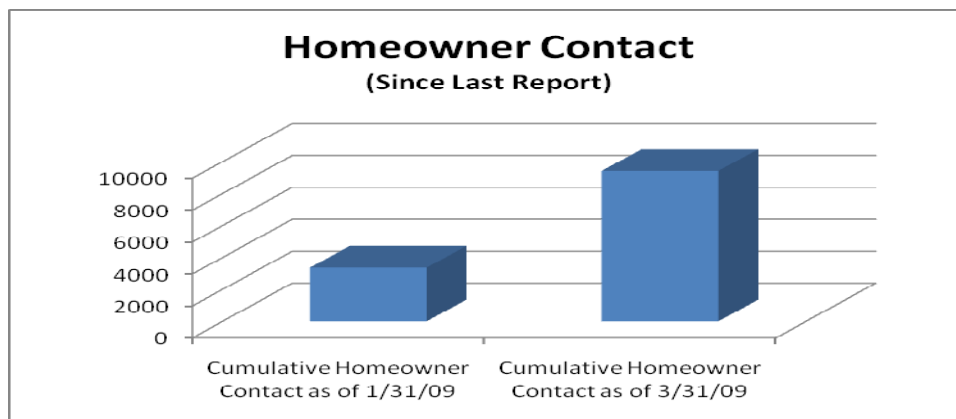
Counselors frequently report that too many homeowners are reluctant to reach out for help, and those that do often wait too long. This is often due to shame, fear, hopelessness, uncertainty about who to trust, and sometimes a lack of knowledge or belief in alternatives to foreclosure. The Foreclosure Project partners have taken a proactive approach to combating this issue, through the use of phone, mail and media outreach.

Counselors have reported an increase in homeowners seeking assistance, as a direct result of NCCOB's letters sent to homeowners. As one counselor stated, "It seems that NCCOB's outreach letter is making a huge difference, as clients are calling in for assistance. Previously, it seemed that homeowners were [calling for assistance] after they received notice of hearing, and sometimes, after receiving eviction papers."

The phone partner has more than tripled the amount of phone outreach conducted since the last report. The increased outreach is partially to credit for the large increase in number of homeowners who have spoken with our call center partner regarding their situations. As shown in Chart 3, this contact has increased by 180%.

As of March 31, 2009, the percentage of homeowners assisted by the Foreclosure Project is more than 16% of those eligible.

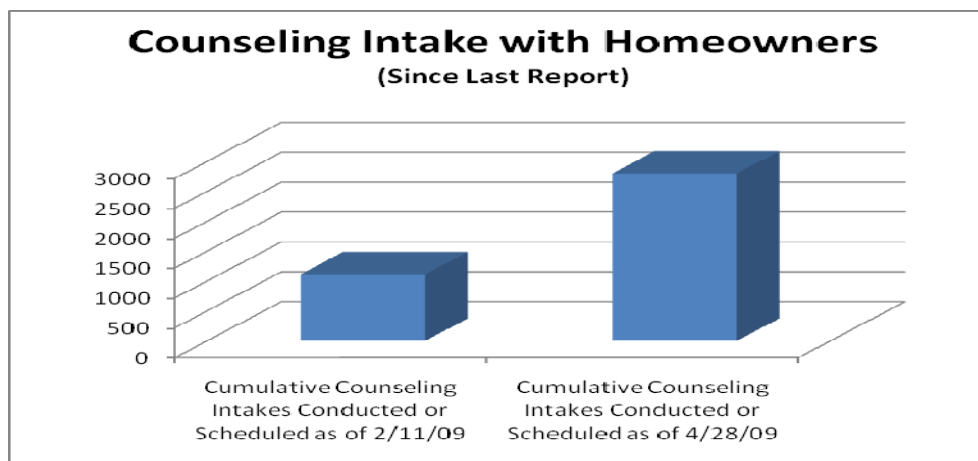
Chart 3: Increased Contact with Homeowners



Housing Counseling Impact

After contact has been established, homeowners are referred to housing counseling agencies for foreclosure prevention counseling. As of April 28, 2009, 2,800 initial counseling sessions have been conducted or scheduled with homeowners. Of the 2,800 sessions, 30 day extensions have been granted to 589 borrowers, allowing additional time for counselors to work with homeowners and servicers on a realistic solution to avoid foreclosure. In addition to helping resolve the immediate foreclosure crisis, counselors also work with homeowners on such issues as implementing a realistic household budget, planning for future financial emergencies, debt management, avoiding scams, and identifying necessary resources in the community for assistance. Modest increases in staff capacity and 6 months of experience with the Foreclosure Project have contributed to an increase in the number of homeowners counseled in a timely manner. Since the last report, the number of initial counseling sessions conducted or scheduled has increased over 150%, as shown in Chart 4.

Chart 4: Counseling Intake Sessions with Homeowners

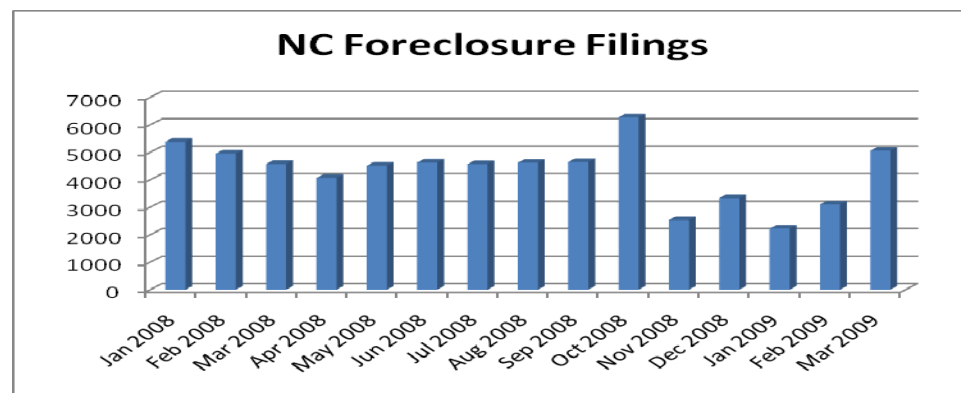


Given the length of time needed to resolve most individual cases and challenges in tracking final outcomes, it is too early to gauge the full impact of the Foreclosure Project. Our database indicates 523 foreclosures have been prevented to date; however, we believe the number underreports the success of the program, as loan modification offers are typically sent directly to homeowners and may not be reported to counselors.

Based on the conservative reporting of 523 foreclosures prevented, NCCOB estimates the program has prevented property value declines of neighboring properties by \$8.7 million⁴ and investor losses of \$36.6 million⁵ that would have occurred had the property gone through foreclosure. This figure does not include the economic impact of foreclosures prevented on the homeowners themselves or on local government revenue or services.

An alternative way to measure impact would be to look at foreclosure filing trends. Below is a chart of foreclosure filing trends over the last 15 months. As shown in Chart 5, foreclosure filings dropped dramatically after the effective date of the Foreclosure Project and maintained the lull until the most recent spike in March, 2009.

Chart 5: Number of Foreclosure Filings (January 2008 through March 2009)



⁴ This estimate is derived from an estimate of property value declines of neighboring properties expected in North Carolina due to foreclosures in 2008 and 2009. See Updated Projections of Subprime Foreclosures in the United States and Their Impact on Home Values and Communities, Center for Responsible Lending (Aug 2008), available at <http://www.responsiblelending.org/pdfs/updated-foreclosure-and-spillover-brief-8-18.pdf>. Based on CRL's estimates, each foreclosure in North Carolina, on average, affects 6.5 nearby properties and results in a reduction of property values of \$2,561 for each nearby property.

⁵ When a property goes through foreclosure, investors typically lose a significant percentage of the loan value ("loss severity"), due to foreclosure costs and lower resale prices of foreclosed properties. One recent industry report identified current loss severity rates for subprime loans at 48.6%. NCCOB calculated the estimated loss to investors by multiplying this loss severity by the average loan size reported in North Carolina in 2006 of \$144,200.

Foreclosure starts in January 2009 were down 59% from January 2008, and year-over-year comparisons for the months of November and December show similar declines. This drop is due to a combination of factors, such as the implementation of foreclosure moratoria by certain major investors and mortgage servicers in late 2008, servicers adjusting to the new pre-foreclosure filing requirements, and the success of our program in promoting communication prior to foreclosure filing. Foreclosure starts spiked again in March 2009, likely due to rising unemployment and a backlog of seriously delinquent mortgages caused by the recent foreclosure moratoria.

III. Homeowner Success Stories

Below is a sampling of success stories shared by partner counseling agencies.

Story One: A homeowner with an adjustable rate mortgage of 9.9% came in for counseling after having received the letter from NCCOB. At intake, she was 3 months behind on her mortgage. She lost her father a few months ago and used her income to pay for his funeral expenses. The counselor requested a loan modification in December 2008. The lender approved the modification, resulting in a lower interest rate of 5% and a monthly savings of \$200. The counselor said “[The client] is so thrilled and grateful for a great program. I feel the NCCOB’s [Foreclosure Project] had a tremendous impact on the effectiveness/timely response.” (Wilson Community Improvement Association)

Story Two: A couple came in for counseling after having been referred through NCCOB’s Foreclosure Project. Both the husband and wife worked for most of their lives, but the husband had to go on disability after fully losing his eyesight. The disability income created a drastic reduction in their household income and ultimately got them behind on their mortgage. Review of their loan documents revealed red flags. Monthly mortgage payments at intake were \$1,700 and did not include property taxes or insurance. The counselor submitted a loan modification request to the original lender. After waiting months for the decision, the clients were informed that their loan was being serviced by a new company. The counselor acted quickly to begin the modification process with the new servicer. On March 16, 2009, the homeowner called the counselor “stunned and almost speechless” after having received a loan modification offer from the new servicer. The homeowner’s new mortgage payment, including taxes and insurance was reduced to \$895.11 for the first year at 3 percent interest. The second year interest will increase to 3.5 percent; the third to 4 percent, and the fourth to 5 percent. The 5 percent interest rate will remain until 2035, making it possible for the homeowners to keep their home. (CCCS of Forsyth County)

Story Three: A homeowner with an adjustable rate mortgage currently at 12.35% came in for counseling because he was no longer able to afford payments. The counselor uploaded loan documents for review and sent a NCCOB loan modification request to the servicer. The servicer offered the borrower a loan modification from a 12.35% ARM to a 6.85% fixed rate. The balloon payment of \$195,000 on the original loan was eliminated (fully amortizing-maturity extended two years). The principal and interest was reduced from \$2,856.31 to \$1,903.93. The counselor uploaded the modification letter for review. The Foreclosure

Fellow confirmed that the modification was a good offer for the homeowner. (Triangle Family Services)

IV. Foreclosures

After six months of work on the Foreclosure Project, NCCOB believes the Foreclosure Project has succeeded in preventing unnecessary foreclosures, reducing the ripple effect on local neighborhoods; however, the foreclosure challenge is still serious due to economic conditions and existing barriers to loan work-outs. Some challenges remain:

- Rising unemployment in North Carolina portends increased foreclosure activity in coming months, as homeowners exhaust financial resources to maintain mortgage payments. The NCHFA's Home Protection Program⁶ is a valuable resource to assist homeowners who have lost work; however, the scope of this program is insufficient to meet the numbers of newly unemployed. Furthermore, servicers have not developed systemic programs to effectively manage increased unemployment.
- Declining home prices in some areas increase the likelihood of increased foreclosure activity. When home prices decline, homeowners have less equity available to navigate short-term financial stress and less ability to sell their home to relocate or to downsize to alternative housing options. By some estimates, one out of ten North Carolina homeowners with a mortgage owe more than their home is worth. With predictions for some further slide in home prices this year, this factor suggests an increase in foreclosure filings.
- Counselors and mortgage servicers continue to have significant challenges in establishing effective and consistent communication. Counselors and servicers report spending too much time dealing with lost faxes, correcting miscommunication, bouncing around among different staff at the mortgage servicer, and tracking down the most updated contact information for servicers.
- Mortgage servicer response time on loan modification requests varies widely, averaging 45 to 60 days after submission of necessary documentation for the counselor to receive a decision. In some cases, response times exceed the time period allowed by statute, leading to the filing of foreclosure proceedings on cases where the homeowner and counselor are waiting for the mortgage servicer to respond.
- Despite significant grants to counseling agencies, the volume of cases has severely-strained counselor capacity. Several agencies have implemented changes in intake systems to increase capacity, but these efforts have not been sufficient to meet expected demand for services, given the current economic conditions. In addition, the Foreclosure Project's database and case management approach to foreclosure prevention has created

⁶ Information on the Home Protection Program is available at:
<http://www.nchfa.com/Homebuyers/HOhomeprotectionpilot.aspx>.

more administrative and reporting work for counselors, despite our efforts to keep these burdens low.

- Counselor reporting indicates a high number of homeowners that do not follow through on foreclosure prevention services. It is too early to know how many of these homeowners are resolving their mortgage delinquency prior to counseling and how many are dropping out of the program for other reasons.
- Counselors report that many loan work-out offers do not address the needs of the homeowner for a sustainable and affordable mortgage payment. In the last couple of months, counselors have noticed an improvement of work-out offers by mortgage servicers, and NCCOB expects that trend to continue with the implementation of a new federal program that offers incentives to homeowners, servicers, and investors to make affordable modifications of loans facing imminent default.
- Though counseling agencies are supportive of various new initiatives to combat foreclosure, counselors have expressed considerable frustration regarding the lack of timely training options available on new programs by the federal government and by mortgage servicers. Extensive media coverage prompts many hopeful homeowners to seek counseling before agencies are prepared to share detailed information about those plans. Additionally, some counselors have reported a rise in the number of foreclosure rescue scams that unfortunately reach desperate homeowners before they seek counseling. NCCOB is coordinating with the Attorney General's office to support the Attorney General's existing efforts to crack down on foreclosure scams.

In the long run, NCCOB hopes the Obama Administration's "Making Home Affordable" plan⁷ will increase the standardization of the loan work-out process and will provide the needed incentives to promote sustainable loan modifications. However, in the short run, the new plan may create some temporary delays as mortgage servicers implement the program and assess eligibility of loans facing foreclosure.

V. Conclusion

The Emergency Foreclosure Act was enacted as a targeted measure to address the subprime loans driving North Carolina's rising foreclosure rate in recent years. NCCOB has made best efforts to implement the statute and deliver services according to the General Assembly's intention, developing a broad partnership with non-profit service providers, the mortgage industry, state agencies, and the legal community. This partnership has been essential to building an infrastructure rapidly to reach and provide assistance to thousands of North Carolina families facing foreclosure.

⁷ More information on the plan can be found at: <http://makinghomeaffordable.gov/>.

The Commissioner believes that broadly speaking, the program has reduced foreclosures during its operation. While there are indicators of success, including a significant number of homeowners who have met with housing counselors for assistance, the full impact of the program is not yet known. NCCOB will continue to modify the Foreclosure Project to improve its effectiveness and outreach.

While the program has succeeded in addressing affordability challenges in some subprime loans, the program was not designed to meet the increasing demand for counseling and work-out assistance for homeowners facing recent unemployment or reduced options due to lower home values. NCCOB is working with its partners to identify opportunities to expand the program to reach these situations.

Appendix A: Counseling Agencies Participating in the Foreclosure Project

Alliance Credit Counseling (Charlotte-based)
Blue Springs-Hoke County CDC
CCCS of Forsyth Co., Inc.
CCCS of Gaston County
CCCS of the Carolina Foothills, Inc.
CCCS of WNC dba OnTrack Financial Education and Counseling
Choanoke Area Development Association of NC, Inc. (CADA)
Consumer Education Services, Inc.
Cumberland Community Action Program, Inc.
Division of Family Service of the Piedmont, Inc.
Durham Affordable Housing Coalition
Durham Regional Community Development Group
Franklin-Vance-Warren Opportunity, Inc.
Guilford County Homeownership Center
Kingdom Community Development Corp.
Monroe-Union County CDC
Northwestern Regional Housing Authority
Olive Hill Community Development Corporation
Prosperity Unlimited, Inc.
Raleigh Area Development Authority
River City CDC in Elizabeth City
Rocky Mount Edgecombe CDC
Salisbury CDC
Telamon Corporation
Triangle Family Services
Twin Rivers Opportunities, Inc.
United Family Services
Western Piedmont Council of Government
Wilmington A.M.E. Zion Housing Development Corp.
Wilson Community Improvement Association, Inc.

*Agencies listed in Bold Italics were added after the project started.