

SENATE CAPITAL BUDGET HEARING

Tuesday, March 1, 2011

Presentation by the
Maryland Department of Housing and Community Development
Secretary: Raymond A. Skinner

to the
Senate Budget and Taxation Committee

Capital Budget Subcommittee
Chair: Senator James E. DeGrange, Sr.



100 Community Place • Crownsville, MD 21032
1-800-756-0119 • www.mdhousing.org

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor

RAYMOND A. SKINNER
Secretary

CLARENCE J. SNUGGS
Deputy Secretary

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Response to Department of Legislative Services (DLS)
Capital Budget Analysis

DHCD CAPITAL BUDGET ANALYSIS

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Response to Department of Legislative Services (DLS)

Capital Budget Analysis

1. Down Payment and Settlement Expense Loan Program (DSELP) (pages 11-15 of DLS Capital Budget Analysis)

DLS Recommendations:

- The Department of Legislative Services recommends reducing the GO Bond authorization for DSELP by \$1 million, from \$8.5 million to \$7.5 million
- Given the current housing turmoil and number of Maryland households facing foreclosure, the Department of Legislative Services recommends the legislature add budget reconciliation language to modify the existing DSELP program to require borrowers to provide down payments to qualify for DSELP assistance. The DSELP funds would be used to match the down payment dollar-for-dollar. This would allow the borrower to demonstrate their financial aptitude and improve the DSELP program's long-term financial health.

DHCD Response: DHCD respectfully does not concur with the DLS recommendations.

DHCD requests:

- Full GO Bond funding of \$8.5 million for DSELP for FY 2012, which level funds State contributions, and
- No modification to the program requiring a one to one borrower match of DSELP funds.

The Department's position is based on the following reasons:

A. Maintaining DSELP investment and supporting homeownership opportunities is more important than ever given the current real estate and economic situation.

DHCD's Maryland Mortgage Program (MMP) and DSELP have an important role in providing sustainable homeownership opportunities for low and moderate income borrowers that can spur investment, fill vacant properties, stabilize neighborhoods and improve overall economic conditions, particularly in neighborhoods hit hard by foreclosure, such as Prince George's County and Baltimore City.

Cutting DSELP funding and instituting additional matching requirements would be particularly unfortunate at this point, as current low house prices and mortgage interest rates make low and moderate income homeownership more affordable and sustainable in a wider range of communities.

B. MMP and DSELP loans play an important role for their target audience of low and moderate income borrowers that have been traditionally poorly served by conventional lending markets.

Minority and low and moderate income borrowers have been poorly served by private mortgage markets. For most of the 20th century, lending discrimination occurred primarily through the denial of credit to minority group members and the neighborhoods where they lived. In the

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1990s HUD reported a shift in the method of discrimination from the denial of credit to one in which credit was extended, but under less favorable terms, including subprime lending. The fact that this practice continued is evidenced by Baltimore City statistics that show that during the height of subprime lending the percentage of subprime loans was 60.7% for African Americans, 51.1% for Latinos and 26.5% for Whites, despite the fact that a significant portion of these homebuyers qualified for a prime.

At the same time, DHCD's homeownership loan programs continued to allow qualified homebuyers to move into their homes without credit denial or less favorable loan terms. Since 2004, 53% of the MMP homeowners served by DHCD have been minorities. Furthermore, each MMP loan made during the housing boom helped to prevent a subprime loan.

C. MMP/DSELP borrowers already contribute funds to their home purchase.

It is very expensive to become a homeowner. Borrowers are required to provide a 3.5% down payment for FHA loans. In addition, about 7% of the home purchase price is required for closing costs. On a typical \$175,000 MMP loan, this translates into about \$18,000 of cash needed to buy a home.

Providing DSELP only reduces a part of this cash burden, which plays a major role in assisting low and moderate borrowers into the home. On the typical MMP loan, the borrower is putting more of their funds into closing the loan than the assistance that they are receiving. DHCD believes that any additional matching requirements are unnecessary, with implementation and administrative costs outweighing any economic benefits.

D. Down payment and closing/settlement costs present significant barriers to homeownership, particularly for low and moderate income and minority borrowers.

Implementing additional borrower matching requirements would raise this barrier. Many middle income borrowers achieve homeownership through family assistance with down payment and closing/settlement costs, which has been shown to be less available to low and moderate income and minority borrowers.

This is confirmed by the following facts related to MMP borrowers since 2007:

- Minorities are 1½ times more likely to take advantage of DSELP (representing 57% of borrowers that took advantage of DSELP only 37% of MMP borrowers that did not utilize DSELP), and
- The average income for MMP borrowers taking advantage of DSELP is 11% lower than the average income for MMP borrowers that did not utilize DSELP (\$48,234 vs. \$54,381).

Despite the lower average income, MMP loans with DSELP assistance are very affordable, with an average mortgage payment to income ratio of 29% compared to the Maryland average of 36% for first-time homebuyers.

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E. Any increase to borrower matching requirements would lower the borrower's cash reserves, which are an important factor in sustaining homeownership and supporting a reasonable standard of living conditions.

It is not advisable for low and moderate income borrowers to become homeowners with an empty bank account and limited access to family assistance. Reserves that provide an ability to deal with home maintenance and repairs are particularly important for borrowers who have lower disposable income.

F. DSELP has experienced limited losses.

Foreclosed DSELP loans and defaulted loan repayment arrangements after a Deed in Lieu of Foreclosure or Short Sale are referred to the Maryland Central Collections Unit (CCU). The CCU has a variety of tools available to ensure collection, including interception of Maryland tax refunds.

As of December 31, 2010 only seven DSELP loans totaling \$25,813 have been written off by DHCD after notification from CCU. This represents less than 0.05% of the \$52.8 million of DSELP loans that have been made since FY 2000.

G. Sustainable homeownership has been shown to provide many social benefits.

Research has shown that sustainable homeownership provides the following social benefits to homeowners, their families and their communities:

- Increased physical and psychological health, including higher self-esteem
- Improved child outcomes, including greater educational attainment and future earnings, fewer emotional problems and lower rates of drop-outs and teen pregnancy
- Improved housing quality and residence satisfaction
- Greater neighborhood stability
- More socially-desirable youth behavior
- Greater civic participation and social involvement
- Increased neighborhood house price appreciation, which leads to a higher tax base
- Increased availability of affordable rental units as renting families move to homeownership

The positive impacts of homeownership over time. Simply becoming a homeowner does not confer the benefits – sustainable homeownership does. MMP underwriting standards and requirement for pre-purchase housing counseling combined with DHCD's proactive asset management and support of a network of housing counseling resources for distressed borrowers foster homeownership and community sustainability. This is evidenced by the fact that average loan life for an MMP mortgage is more than twice as long as the average life of all Maryland mortgages.

Given these facts, DHCD requests full funding for DSELP and advises against any language requiring additional matching for DSELP loans.

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2. Neighborhood Business Development Program *(page 39 of DLS PAYGO Analysis)*

DLS Recommendation: The Department of Legislative Services recommends reducing the GO Bond authorization for the NBW Program by \$1.15 million, from \$4.25 million to \$3.1 million.

DHCD Response: DHCD respectfully does not concur with the DLS recommendation and requests that the General Assembly approve the Governor's Allowance of \$4,250,000.

The Neighborhood Business Development Program, operating as Neighborhood BusinessWorks (NBW), is a unique and critical resource for creating and expanding small family-owned businesses and associated jobs in older communities throughout Maryland. It is one of the State's most financially successful programs, despite modest State funding.

In the current economic downturn, NBW is needed more than ever because of the increased capital access needs of small businesses. Prior to the economic downturn that has affected NBW allocations, historical budget authority levels for NBW averaged \$6 million a year. Restoring NBW funding is now more important due to the need to create jobs and support the credit needs of small businesses that do just that. Furthermore, now that the program is fully staffed, DHCD has the capacity to generate an increased level of business.

The NBW Program has produced sound business and economic returns. From FY 1996 to FY 2002, State investments totaling \$43.5 million successfully established a revolving loan fund that has generated significant program income for ongoing investments. Through the end of 2010, the program made \$59.3 million in loans to 244 small businesses and \$19.1 million in grants to 247 nonprofits. Local economic returns have exceeded expectations. Additionally, the current loan portfolio of \$16.5 million generates ongoing income for new loan investments.

As a result of these investments, NBW has created and sustained more than 3,500 jobs. In addition to job development, NBW investments have revitalized communities and stimulated significant investment by private lenders, averaging \$5 for every \$1 in public investment. In addition, NBW can invest no more than 50% of a project's costs; therefore, the program is investing in projects in which other investors have found significant value but that could not proceed without NBW participation.

The neighborhood business entrepreneurs assisted by NBW are people who aim to serve their communities: providing a good meal, a good cup of coffee, veterinary care for the dogs and cats of local families, and a good book or bicycle for local residents. While these may seem to be modest aims, these are the local business owners that generate most of the jobs in Maryland communities.

This is the unique and critical niche of DHCD's Neighborhood BusinessWorks Program. When neighborhood business entrepreneurs succeed, they produce jobs and valuable services that benefit their surrounding community. Moreover, they contribute to the intangible but critical "sense of community" that binds people and businesses to one another and allows for the public and private partnerships that result in a healthy local economy.

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In the last several years, NBW staff has focused on expanding access to capital for women and minority-owned businesses. These enterprises face historical barriers to sufficient and affordable credit. Since January 2007, 34 NBW loans have been made to women and minority owned small businesses.

In addition, NBW just this month launched its Microenterprise Initiative through which it will partner with local community lenders to support businesses of five or fewer employees. The modest increase in GO Bond funding proposed by the Governor's Allowance is critical to the success of this initiative.

A small sample of the economic and community "return on investment" from the 244 businesses invested in since 1996 follows.

J Maries, Hyattsville (District 22)

This 2009 Neighborhood BusinessWorks loan for \$135,000 assisted in the opening of the only authentic Louisiana cuisine restaurant in Prince George's County offering a unique fusion of Cajun and Creole cuisine with jazz and blues live entertainment. The restaurant will also provide live concerts in the public space outside the venue. This \$1.2 million project is part of the Hyattsville Revitalization initiative and is a minority, women, veteran-owned business that will create 18 new jobs.

Studio 54 Hair Gallery, Laurel (District 13)

This 2009 modern barber/salon is the first Neighborhood BusinessWorks loan in Howard County. This minority-owned business relocated from the Prince George's County side of Laurel to the Howard County side into a BRAC zone just outside historic Laurel. The project made use of vacant street level commercial property within a mixed-use and affordable residential building at Ashbury Courts. The \$36,000 relocation project was supported by a \$15,000 Neighborhood BusinessWorks loan. The project created 5 jobs and sustained 2 jobs. Due to the success of the business, the owners are considering expanding.

Potomac Gourmet Pantry, National Harbor (District 26)

This 2010 Neighborhood BusinessWorks loan for \$300,000 will assist the opening of the National Harbor's first grocery store in this three-year-old waterfront development consisting of hotels, resorts, condos, commercial and retail space on the Potomac River in the Oxon Hill area of Prince George's County. The Pantry will feature "Bought Local" organic produce and offer delivery service to the immediate area, on-line ordering with "shop-for-you" services, as well as, curbside pickup. This \$1.6 million project will create 25 jobs in a minority-owned business.

Brexton Hotel, Baltimore City (District 40)

This 2009 Neighborhood BusinessWorks loan for \$500,000 assisted in the complete revitalization of a long-vacant structure built in 1881 into a eclectic boutique hotel. This unique, six-story, triangle-shaped, turret-topped Victorian structure, which was built by prominent architect Charles Cassell for Samuel Wyman (of Wyman Park fame). The hotel has royal connections. In the early 1900's, The Brexton Hotel was the quiet family home of the young Bessie "Wallis" Warfield who became the wife of England's King Edward VIII after his abdication from the throne. This \$5.1 million project created 18 new jobs.

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Miller's Court, Baltimore City (District 40)

A recipient of a \$700,000 Neighborhood BusinessWorks loan in 2008, this \$19 million project is the redevelopment of the long-vacant, historic Miller Tin Can and Box Factory in Baltimore's Remington neighborhood. The owners rehabilitated and converted this 77,000 sq. ft. building into a mixed-use property, including 40 affordable loft-style apartments targeted towards new teachers in the Baltimore City School System and 35,000 square feet of office space targeted for nonprofit organizations working in and with the public school system.

This project, which is part of the greater Charles Village renewal plan, greatly contributed to strengthening the neighborhood commercial district, significantly improving the exterior of most of a city block and two nearby parking lots, introduced new services to the neighborhood, generated new office and residential tenants, created 160 jobs and eliminated a vacant eyesore that has been the subject of prior, failed redevelopment efforts. The project financing was structured using a Neighborhood BusinessWorks loan, New Markets Tax Credits, State Historic Tax Credits and a loan from Baltimore City.

Roscoe's Neapolitan Pizzeria, Takoma Park (District 20)

The recipient of a \$141,300 Neighborhood BusinessWorks loan in 2009, this \$282,600 project entailed the renovation of a vacant and under-utilized storefront. This upscale wood fired brick oven restaurant is located in the diverse and trendy Takoma Park Main Street community.

Franklin's Restaurant & General Store, Hyattsville (District 22)

This 1995 loan in the amount of \$500,000 has led to the annual employment of 10 full-time and 56 part-time people. Franklin's generates annual State and local tax revenues of approximately \$114,000. Proprietor Mike Franklin reports that his restaurant serves 200,000 meals annually and the success of his business is credited as being a major economic catalyst for subsequent revitalization initiatives along the Rt. 1 corridor, including the establishment of the "Gateway Arts & Entertainment Districts" (A&E district) and the investment by the private sector EYA developer of more than \$100 million to produce 200 single-family town-homes and 40,000 square feet of new retail services just north of Franklin's.

Alliance Publishing, Cumberland (District 1)

A 2007 loan of \$500,000 helped this family-owned business along the "Maple Street" corridor of Virginia Avenue in Cumberland create 15 new full-time and 2 part-time jobs. This enterprise served more than 2,500 customers last year, including its special niche, public school teachers, through supportive lesson planning materials. This project generates approximately \$7,000 annually in State and local tax revenue.

Craig's Drug Store, Cambridge (District 37)

This 1998 loan of \$500,000 helped sustain and expand one of the oldest family-owned pharmacies on the Eastern Shore. The store and its affiliated medical supply enterprise, housed upstairs over the Main Street drug store, currently employs 30 people.

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Fire Station 1 Restaurant & Brewing Company, Silver Spring (District 20)

This 2009 loan of \$150,000 supported the acquisition, renovation and preservation of a historic fire station into a fire-house themed restaurant. The restaurant serves as a tribute to firefighters. The landmark building has been a fixture of downtown Silver Spring since 1914. The restaurant will promote the “Giving-Back” marketing program that supports local burn foundations. The restaurant venture added a unique dining option and destination attraction to the downtown area. It is projected to create approximately 125 full and part time job opportunities.

4321 Harford Road, Baltimore City (District 45)

This 2008 \$85,000 loan allowed the renovation of a row house next to the Chameleon Restaurant (another NBW project) in the 4300 block of Harford Road, Baltimore. In addition to providing the needed office space for the Chameleon restaurant business, the building will have 4 units for commercial lease. The project created 6 jobs.

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3. MD-BRAC Preservation Loan Fund *(page 59 of DLS Capital Budget Analysis)*

DLS Recommendations: DHCD should comment on the status of county partner matches with other jurisdictions, the number of applications it has received, the number of projects in the pipeline, and whether the agency risks losing any of the original seed-funding if partner matches do not materialize and funds are not spent in a timely manner.

DHCD Response: The MD-BRAC Preservation Loan Fund (the Fund) will be capitalized by a \$4 million Program Related Investment (PRI) from the John D. and Catherine T. MacArthur Foundation (MacArthur Foundation), as well as \$4 million of matching funds from the Department of Housing and Community Development and several counties impacted by BRAC. After an extended period of time finalizing the PRI documentation with the MacArthur Foundation, \$2 million of the PRI was received by DHCD at the end of FY 2010.

Since the opening of the Fund in the Summer of 2010, DHCD has secured matches from Montgomery County and Harford County. Current committed funding totals \$5.04 million. DHCD expects to receive additional matching contributions totaling \$960,000 from three counties during 2011 to finalize the matching funds necessary to secure the remaining \$2 million contribution from the MacArthur Foundation. DHCD is actively working with Baltimore County, Howard County and St. Mary's County to secure the necessary commitments and contributions of matching funds.

DHCD closed on the financing for the first project through the Fund in December 2010. While there are at present no applications in process for funding, DHCD is confident that additional requests will be received to make use of the Fund. It is important to note that applications for financing from the Fund proceed to closing very quickly (e.g. 30-90 days), so Fund production activity can change very rapidly. DHCD is actively marketing the financing products available through the Fund to its existing network of borrowers and developers. DHCD believes that production activity is proceeding at an acceptable pace given the fact that the Fund opened for business only recently.

In regards to the continued availability of the remaining \$2 million from the MacArthur Foundation, DHCD is in regular contact with the MacArthur Foundation regarding the challenges associated with securing county matching funds in the current economic climate. Based on these discussions, DHCD believes it is unlikely the MacArthur Foundation will withdraw its remaining support for the Fund. It is worth noting that DHCD's overall preservation production activity in the MD-BRAC geographic footprint exceeded the goals agreed to with the MacArthur Foundation during the most recent reporting year.

**Department of Housing and Community Development
Foreclosure Prevention and Assistance Summary
February 23, 2011 Update**

1. Efforts continue to focus on outreach and housing counseling

State and federal foreclosure prevention and assistance programs have focused on reaching and assisting homeowners having difficulty paying their mortgage, as well as renters who have been impacted by the foreclosure against owners of the property that they are renting.

DHCD's extensive outreach and communication efforts have encouraged homeowners to immediately contact a housing counselor for one-on-one assistance in identifying loss mitigation options and working with lenders to implement the best option available to that homeowner. The earlier that a homeowner seeks assistance, the more likely they are to have a range of loss mitigation options available.

A December 2010 Urban Institute analysis of the federal National Foreclosure Mitigation Counseling (NFMC) Program found that counseled borrowers were:

- Almost twice as likely to cure their foreclosure than non-counseled borrowers
- Received larger payment reductions through loan modifications than non-counseled borrowers (\$267 more a month or over \$3,200 a year)
- Were 45% more likely to remain current on modified loan payments than non-counseled borrowers
- Were 53% more likely to bring their loan current than non-counseled borrowers

DHCD has administered approximately \$3 million of NFMC housing counseling grants for Maryland.

However, it is also important to measure the success of State and federal programs in terms of the information and assistance provided to citizens, not solely on the number of foreclosures avoided – it is simply not possible to keep every delinquent homeowner in their home, particularly in the current economic and housing environment. However, it is possible to help citizens achieve the best possible outcome, even if that means having time to sell their home instead of being subjected to the significant credit damage and other indignities of foreclosure.

Foreclosure Prevention and Assistance Services Provided

	FY 2008	FY 2009	FY 2010	YTD Dec FY 2011	Cumulative
# Hotline Calls	8,725	17,158	8,964	4,058	38,905
# People Counseled / # Intakes	9,823	13,680	19,942	9,938	53,383
# People Avoided Foreclosure	3,398	4,514	5,110	1,991	15,013
# Public Events	126	128	66	44	364
# People at Public Events	14,800	24,775	21,953	12,088	73,616
# Pieces of Literature Distributed / Mailed	690,935	98,459	51,270	36,787	877,451
# Foreclosure Prevention Website Visits					330,798

Source: Department of Housing and Community Development

Cost of DHCD Foreclosure Prevention and Assistance Programs

	Total \$ FY 2008 - Dec 2011	\$ by Fiscal Year				\$ by Fund Source		
		FY 2008	FY 2009	FY 2010	YTD Dec FY 2011*	General	Special	Federal
Flyers, mailings, advertising	1,852,655	554,014	597,334	482,733	218,574		1,852,655	
Outreach events	1,112,224	304,237	285,838	247,447	274,702	69,795	1,042,429	
Federal grant administration	411,400	9,968	164,733	213,088	23,611			411,400
Foreclosure hotlines - homeowners & renters	415,984	212,500	15,702	134,238	53,544		415,984	
Operating Expenses	3,792,263	1,080,719	1,063,607	1,077,506	570,431	69,795	3,311,068	411,400
Housing Counseling Grants	7,510,494	1,859,978	1,284,820	1,785,850	2,579,846	300,000	3,541,500	3,668,994
Total	11,302,757	2,940,697	2,348,427	2,863,356	3,150,277	369,795	6,852,568	4,080,394

* Includes encumbrances for housing counseling grants

Source: Department of Housing and Community Development

In addition to the above activities administered by DHCD, DLLR reports the following costs and outcomes for foreclosure prevention and regulatory enforcement:

Cost of DLLR Foreclosure Prevention and Assistance Programs

	<u>Activity</u>	<u>Cost</u>	<u>Outcome</u>
FY09	Outreach	\$ 67,000 (SF)	130,000 Notice of Intent Letters mailed
FY10	Outreach,	\$ 50,000 (FF)	160,000 Notice of Intent Letters mailed
	Enforcement	\$ 65,000 (FF)	Enforcement attorney hired 32 Cease & Desist Orders 7 Consent Orders \$150,000 in Consumer refunds \$400,000 in Fines
FY11	Outreach (YTD)	\$ 59,908 (SF)	Automated Notice of Intent Intake Outreach Director Hired
	Enforcement	<u>\$365,000</u> (FF)	Attorney, paralegal and investigator and case tracking software
	Total:	<u>\$606,908</u>	

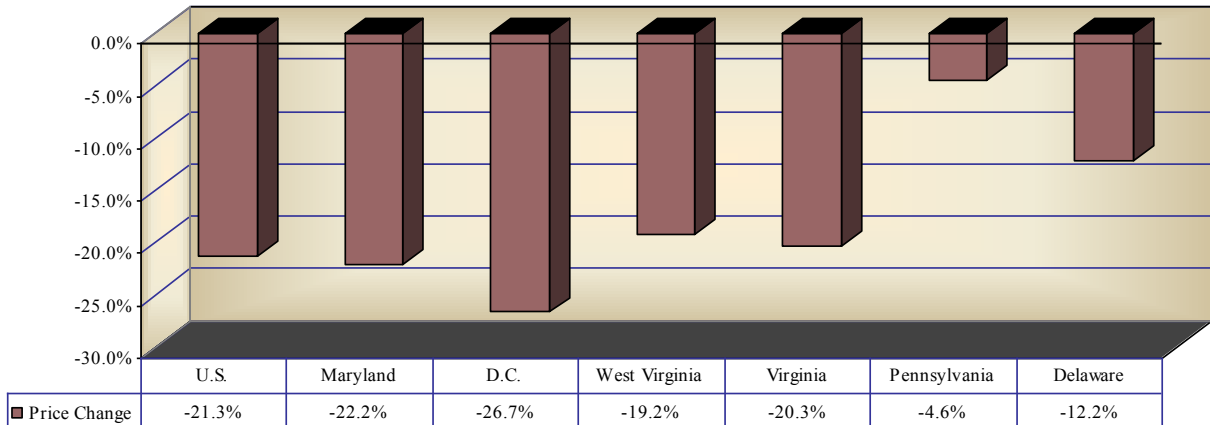
Note: SF=Special Funds, FF=Federal Funds

Source: Department of Labor, Licensing, and Regulation

2. Starting in 2008, refinance was no longer a viable option for many homeowners

The first wave of foreclosures resulted from subprime and exotic mortgages, including adjustable rate mortgages. Homeowners who acted quickly could often refinance into a more sustainable mortgage. However, the rapid rise in property foreclosures caused a sharp increase in housing inventories, significant declines in home prices and home sales, and a significant tightening of credit standards by lenders. As a result, fewer borrowers facing increased interest rates or delinquencies were able to refinance their mortgage or sell their home to avoid foreclosures. From the first quarter of 2007 through the third quarter of 2010, Maryland home sales prices declined an average of 22%.

Percent Change in Median Home Sales Prices, 2007Q1-2010Q3

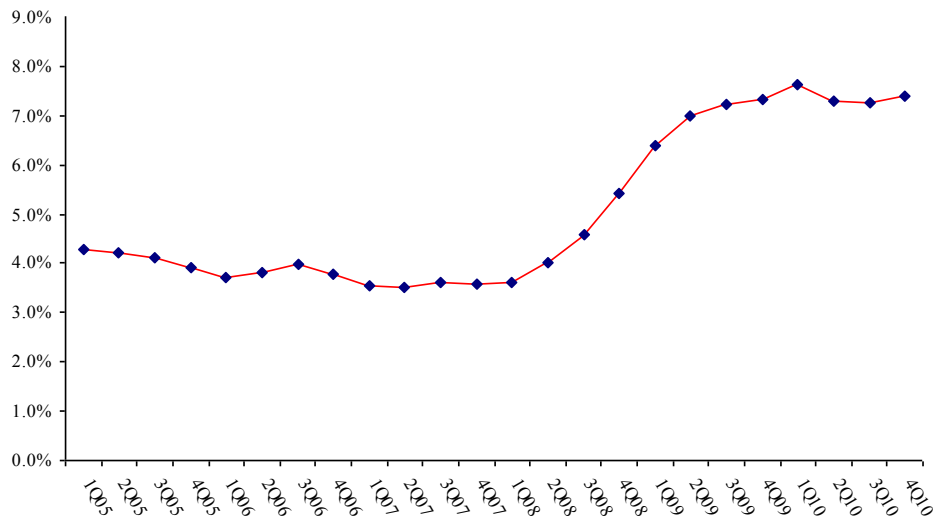


Sources: National Association of Realtors (NAR): Real Estate Outlook; Moody's Analytics Estimates

As time went on, more mortgages became “underwater” - that is, the borrower owed more on the mortgage than their house was worth, particularly if they had refinanced or purchased their home during the 2005 to early 2007 period of peak housing prices. The most recent data available from First American CoreLogic for the third quarter of 2010 continues to show that 22% of Maryland mortgages are underwater, with another 5% nearly underwater.

3. Impact of unemployment and underemployment on delinquencies and foreclosures

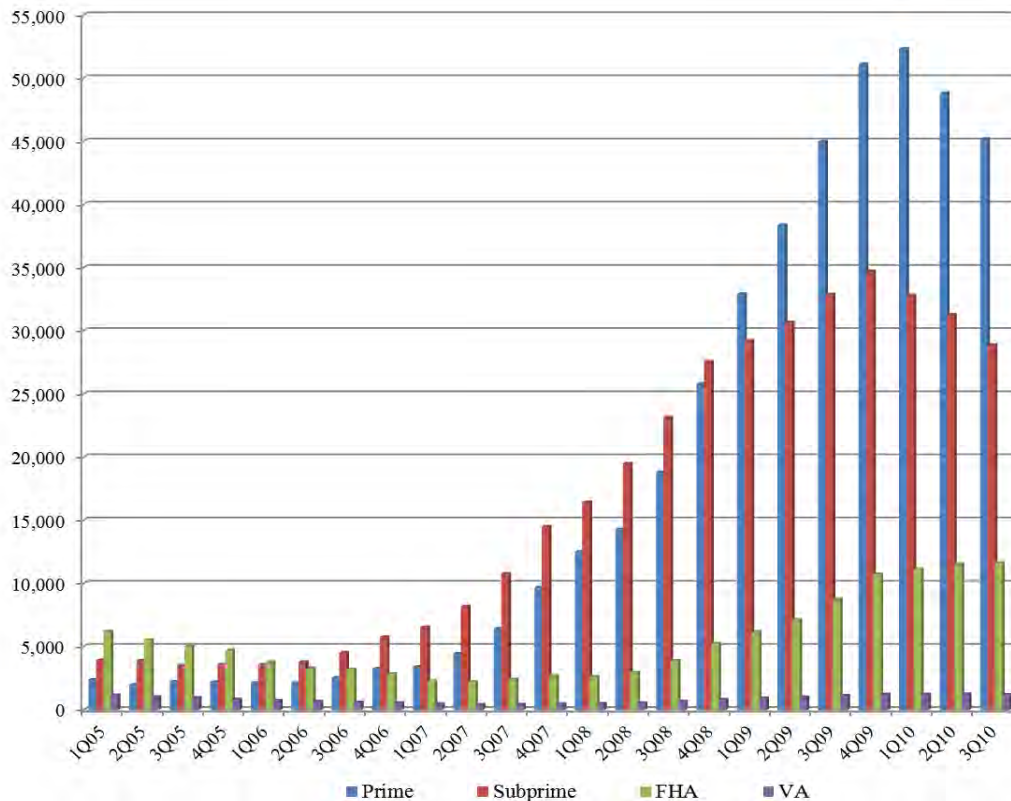
At their peak in late 2007, subprime loan delinquencies accounted for 53% of all delinquencies. The housing crisis led to wider economic problems and significant growth in unemployment, as well as underemployment as borrowers lost earnings from overtime and second jobs which had enabled them to qualify for and pay their mortgages. As of December 2010, the Maryland unemployment rate was 7.4%



Source: Moody's Economy.com

As a result, delinquencies in prime mortgages rose sharply, outnumbering subprime delinquencies throughout 2009. At the same time, continued loss of income made it more difficult to refinance or to negotiate a sustainable loan modification

Number of Seriously Delinquent loans by type in Maryland



Source: MBA, National Delinquency Survey

4. Loan modifications have been difficult to achieve

With many homeowners unable to refinance, loan modifications became the only viable option that could potentially allow borrowers to stay in their home. However, the increase in delinquencies and foreclosures significantly increased the workload and document flow at mortgage servicers, with a very negative impact on customer service, including lack of timely responses and loss of documents submitted by borrowers and housing counselors.

Adding to these problems, complex and lengthy approval processes often resulted in significant delays or failures of potential modifications or other loss mitigation alternatives to foreclosure such as short sales and deeds in lieu of foreclosure that are potentially less expensive for a homeowners, as well as less harmful to their credit rating. Since most mortgage servicers continue with foreclosure proceedings while modification negotiations are underway, these significant delays resulted in homes being foreclosed upon while homeowners believed that they were still negotiating in good faith with the servicer.

5. Foreclosure prevention and assistance legislation

2008 foreclosure reform legislation tightened foreclosure filing requirements and extended the foreclosure timeline and notice to homeowners, providing additional time for homeowners to negotiate with mortgage servicers. Despite the additional time, modifications continued to be increasingly difficult to achieve due to the factors mentioned above.

2010 foreclosure mediation legislation instituted mediation to ensure that lenders have performed a meaningful loss mitigation analysis of alternatives available to work out the loan and also to ensure that borrowers have the option of a face to face meeting with the lender or their representative. One of the key requirements of the mediation legislation is for the lender to provide a loss mitigation affidavit with their Order to Docket foreclosure filing. A preliminary loss mitigation affidavit may be used for the filing, but a final affidavit declaring that the analysis is complete and that the homeowner has been deemed ineligible for any loss mitigation is required to proceed with the foreclosure. Borrowers have just 15 days to request mediation once the final loss mitigation affidavit is sent.

In addition, the 2010 mediation legislation established a funding source, the Maryland Housing Counseling Fund (the Fund) now being administered by DHCD, for nonprofit homeownership counseling that recognized the value of objective nonprofit assistance for consumers that need to make complex homeownership decisions that may be the mostly costly and legally complicated commitment of their lives. The Fund is authorized to use revenues to pay for a range of nonprofit financial education and housing counseling assistance, including but not limited to assistance for foreclosure mediations and other State foreclosure prevention efforts.

The Fund is capitalized through the assesment of \$300 lender foreclosure filing fees and \$50 borrower mediation filing fees established by the 2010 mediation legislation. From July 1 through December 31, 2010 the Fund received just under \$1.2 million in fees which are primarily being used to support FY 2011 housing counseling awards of \$1,976,500. **Only \$337,000 of direct mediation expenses have been charged by the Maryland Judiciary and Office of Administrative Hearings through December 31, 2010.**

**Maryland Housing Counseling Fund
as of December 31, 2010**

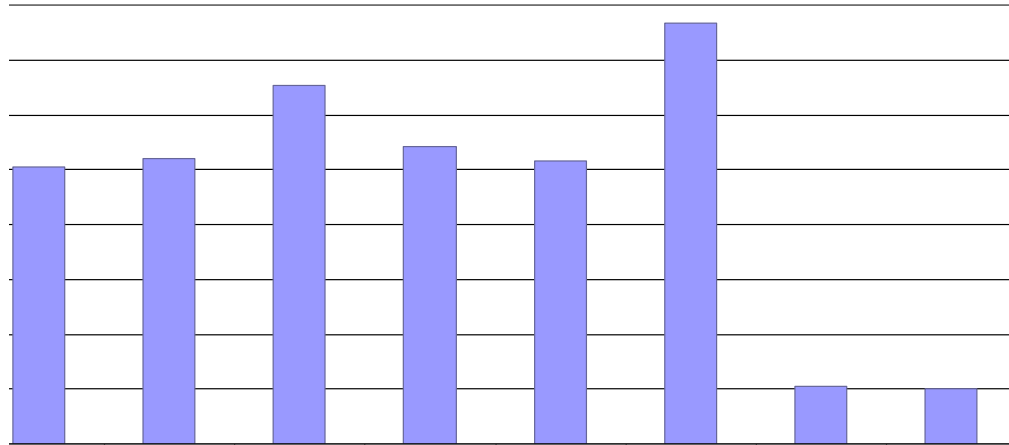
	Fund Balance						Budget Status				
	July	Aug	Sep	Oct	Nov	Dec	YTD Cash Receipts & Payments	Expenses Not Yet Paid	Total YTD Expenses	Budget	Available Budget
Beginning Fund Balance	-	37,550	198,647	448,240	731,496	609,350	-				
Revenues Received											
Judiciary - C36	37,550	179,400	356,150	291,175	131,725	175,450	1,171,450				
Interest Allocation					2,389	1,351	3,740				
Total	37,550	179,400	356,150	291,175	134,114	176,801	1,175,190				
Payments											
Judiciary - C00			-		7,339	1,446	8,785		8,785	43,300	34,515
Clerks of the Courts - C00			-				-		-	185,585	185,585
OAH - D99			103,250				268,244		268,244	784,387	516,143
DLLR - P00		18,303	3,306	7,919	10,796	19,584	59,908		59,908	225,000	165,092
DHCD - S00							-				
Housing counseling grants					238,125	51,250	289,375	1,687,125	1,976,500	3,000,000	1,023,500
Operating expenses								330,600	330,600	980,785	650,185
Total	-	18,303	106,557	7,919	256,260	237,273	626,313	1,252,626	2,486,948	5,219,057	2,575,019
Ending Fund Balance	37,550	198,647	448,240	731,496	609,350	548,878					

Source: Department of Housing and Community Development

6. Impact of 2010 foreclosure mediation legislation

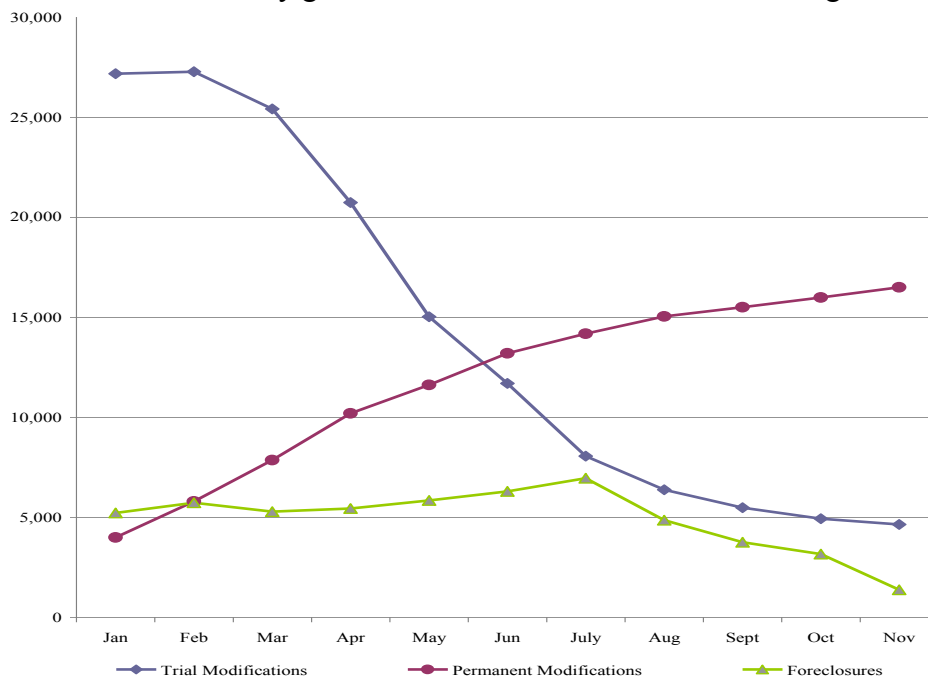
Foreclosure filings in Maryland have significantly declined since the July 1, 2010 implementation of the foreclosure mediation law. This has been attributed to two issues: (1) lenders need to understand and comply with the new mediation law and (2) lender reaction to the “robo-signing” controversy.

**Order to Docket Foreclosure Filings
by Quarter 2009 through 2010**



Source: Maryland Judiciary

DHCD and DLLR believe that the new Mediation law is effective in that it has required lenders to more carefully scrutinize whether their borrower may be eligible for loss mitigation, including sustainable loan modifications that may allow the borrower to remain in their home or have a “soft landing.” A U.S. Department of the Treasury report of Home Affordable Modification Program (HAMP) loan modifications in Maryland in 2010 shows that the number of permanent modifications continued to steadily grow even while foreclosures declined significantly.



Source: U.S. Department of the Treasury

Between January and June 2010 the number of HAMP modifications in Maryland was 1.6 times higher than the number of foreclosures. For the period July through November, the number of modifications was 3.8 times higher than the number of property foreclosures for the period. HAMP modifications are generally considered the most affordable and sustainable of modifications because the federal government requires that lenders achieve a monthly payment that does not exceed 31% of the borrower's gross monthly income.

The increase in the number of permanent loan modifications combined with the decrease in foreclosures points to the effectiveness of the law in encouraging lenders to work with Maryland homeowners towards a loan modification or alternative loss mitigation option rather than filing for a costly foreclosure.

7. FY 2011 Foreclosure Filings and Mediation Requests by Jurisdiction

Lender Order to Docket Foreclosure Filings – FY11 YTD

Jurisdiction	July	Aug	Sep	Oct	Nov	Dec	YTD
Allegany	1	5	11	5	2	5	29
Anne Arundel	14	48	73	81	42	39	297
Baltimore City	31	128	208	171	98	105	741
Baltimore County	31	76	144	111	49	78	489
Calvert	-	3	24	9	7	5	48
Caroline	4	4	10	9	3	2	32
Carroll	1	9	24	19	6	9	68
Cecil	-	12	14	16	20	19	81
Charles	12	31	55	29	17	18	162
Dorchester	1	6	21	7	7	13	55
Frederick	6	27	46	30	16	19	144
Garrett	2	5	8	7	5	1	28
Harford	10	26	30	23	17	20	126
Howard	8	14	29	25	12	8	96
Kent	-	2	2	4	-	1	9
Queen Anne's	4	8	16	8	3	7	46
Somerset	1	4	8	6	4	3	26
St. Mary's	3	5	22	10	2	5	47
Talbot	3	2	9	8	4	4	30
Washington	2	19	30	27	6	18	102
Wicomico	4	11	34	15	8	15	87
Worcester	2	16	20	21	11	10	80
Subtotal	140	461	838	641	339	404	2,823
Prince George's	43	173	267	198	93	139	913
Montgomery	14	45	110	82	45	52	348
TOTAL	197	679	1,215	921	477	595	4,084

Source: Maryland Judiciary

Borrower Mediation Requests – FY11 YTD

Jurisdiction	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Allegany	-	-	1	-	-	-	1
Anne Arundel	-	1	5	3	5	10	24
Baltimore City	1	-	18	17	20	13	69
Baltimore County	-	-	14	16	5	13	48
Calvert	-	-	-	2	1	-	3
Caroline	-	-	-	1	-	-	1
Carroll	-	-	-	1	-	2	3
Cecil	-	-	1	1	-	1	3
Charles	-	-	7	6	5	7	25
Dorchester	-	-	1	-	1	-	2
Frederick	-	-	1	5	1	1	8
Garrett	-	-	-	1	1	-	2
Harford	-	-	2	2	1	3	8
Howard	-	-	3	5	2	3	13
Kent	-	-	-	-	-	1	1
Queen Anne's	-	-	1	-	-	1	2
Somerset	-	-	-	1	-	2	3
St. Mary's	-	-	2	2	3	-	7
Talbot	-	-	-	1	1	-	2
Washington	-	-	4	3	-	5	12
Wicomico	-	-	-	3	1	1	5
Worcester	-	-	2	3	-	-	5
Subtotal	1	1	62	73	47	63	247
Prince George's	-	6	32	30	21	24	113
Montgomery	-	1	10	13	8	8	40
TOTAL	1	8	104	116	76	95	400

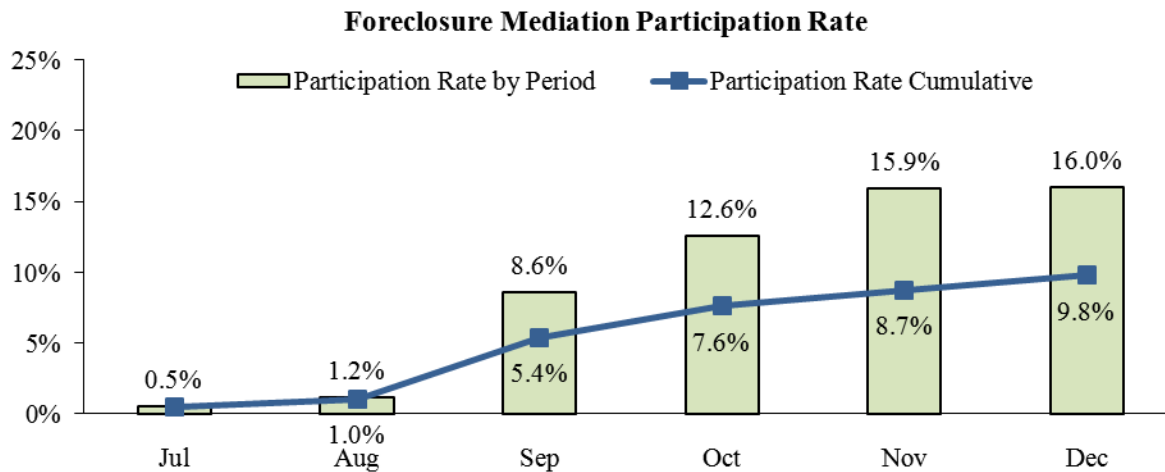
Source: Maryland Judiciary

Borrower Mediation Requests as a % of Lender Filings – FY11 YTD

Jurisdiction	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Allegany	0.0%	0.0%	9.1%	0.0%	0.0%	0.0%	3.4%
Anne Arundel	0.0%	2.1%	6.8%	3.7%	11.9%	25.6%	8.1%
Baltimore City	3.2%	0.0%	8.7%	9.9%	20.4%	12.4%	9.3%
Baltimore County	0.0%	0.0%	9.7%	14.4%	10.2%	16.7%	9.8%
Calvert	-	0.0%	0.0%	22.2%	14.3%	0.0%	6.3%
Caroline	0.0%	0.0%	0.0%	11.1%	0.0%	0.0%	3.1%
Carroll	0.0%	0.0%	0.0%	5.3%	0.0%	22.2%	4.4%
Cecil	-	0.0%	7.1%	6.3%	0.0%	5.3%	3.7%
Charles	0.0%	0.0%	12.7%	20.7%	29.4%	38.9%	15.4%
Dorchester	0.0%	0.0%	4.8%	0.0%	14.3%	0.0%	3.6%
Frederick	0.0%	0.0%	2.2%	16.7%	6.3%	5.3%	5.6%
Garrett	0.0%	0.0%	0.0%	14.3%	20.0%	0.0%	7.1%
Harford	0.0%	0.0%	6.7%	8.7%	5.9%	15.0%	6.3%
Howard	0.0%	0.0%	10.3%	20.0%	16.7%	37.5%	13.5%
Kent	-	0.0%	0.0%	0.0%	-	100.0%	11.1%
Queen Anne's	0.0%	0.0%	6.3%	0.0%	0.0%	14.3%	4.3%
Somerset	0.0%	0.0%	0.0%	16.7%	0.0%	66.7%	11.5%
St. Mary's	0.0%	0.0%	9.1%	20.0%	150.0%	0.0%	14.9%
Talbot	0.0%	0.0%	0.0%	12.5%	25.0%	0.0%	6.7%
Washington	0.0%	0.0%	13.3%	11.1%	0.0%	27.8%	11.8%
Wicomico	0.0%	0.0%	0.0%	20.0%	12.5%	6.7%	5.7%
Worcester	0.0%	0.0%	10.0%	14.3%	0.0%	0.0%	6.3%
Subtotal	0.7%	0.2%	7.4%	11.4%	13.9%	15.6%	8.7%
Prince George's	0.0%	3.5%	12.0%	15.2%	22.6%	17.3%	12.4%
Montgomery	0.0%	2.2%	9.1%	15.9%	17.8%	15.4%	11.5%
TOTAL	0.5%	1.2%	8.6%	12.6%	15.9%	16.0%	9.8%

Source: Department of Housing and Community Development

Mediation filings as a percent of lender filings have been consistently increasing.



However, when comparing foreclosure filings to the number of mediation requests by period, it is important to note two timing differences that can cause the lender's filing to precede the reporting of borrower's mediation request by several weeks. First, if a lender files a preliminary loss mitigation affidavit, the final loss mitigation affidavit may not be filed sooner than 28 days after service of the order to docket that contained the preliminary loss mitigation affidavit (and may take longer than 28 days). Second, the borrower is only eligible to file a mediation request after receipt of the final loss mitigation affidavit and is then given, by statute, 15 days to file their mediation request. As a result, lender order to docket foreclosure filings in one month will often result in borrower mediation requests in a later month.

DHCD, DLLR, and the Office of Administrative Hearings (OAH) are working closely together to make the mediation program a very useful resource to as many homeowners as possible. These agencies meet every other week to discuss and resolve issues that arise. One issue that is of concern is strategic outreach to homeowners that are eligible for mediation to encourage them to follow through on their right to meet and mediate with their lender.

DHCD and its partners are moving on the following four fronts to increase consumer participation in mediation:

- *Encouraging households that "Opt In" for mediation to follow through and attend mediation:* OAH statistics through 12/31/10 show that more than 52 of the 317 mediation cases (more than 15%) were closed due to the Homeowner defaulting by not showing up for their scheduled mediation session. DHCD has created a colorful insert with a simple message that OAH is now including in the information packets that they are sending to borrowers that request mediation. The insert emphasizes the value of mediation and the availability of nonprofit resources to help.
- *Alerting households whose lenders have just filed for foreclosure (an Order-to-Docket, OTD), that they may be eligible for mediation:* The nonprofit Civil Justice is reviewing electronic Court files to find the names and addresses of households that have been filed against. Civil Justice is sending out information about their nonprofit legal services. DHCD is also reviewing options for using the same contact information to reach out to troubled homeowners at this critical OTD stage.

- *Advertising to promote use of Maryland’s HOPE Hotline and www.mdhope.org website to locate nonprofit housing counseling assistance:* Advertising through radio, print and TV media continues to be a critical strategy to connect consumers with nonprofit assistance. Callers are referred to local nonprofit housing counseling agencies so that they can find out all their options, including mediation.
- *Reaching households at public events, through State agencies, and non-profit organizations:* DHCD has a robust calendar of public outreach events at which nonprofit counselors, pro bono attorneys and loan servicers assist consumers in understanding their options and next steps. These public workshops often function as the first step in a consumer finding out what help is available. In addition, foreclosure prevention materials are actively distributed to the Department of Human Resources Departments of Social Services, One Stop Shops, the Department of Motor Vehicles, Federal, State and local elected officials, as well as other non-profit organizations and State agencies that receive a high-volume of consumer visits, such as the Office of Home and Energy Programs (OHEP).

8. Mediation hearing outcomes

Similar to the delay between the lender foreclosure filings and the borrower mediation requests, there are further delays between borrower mediation requests and the scheduling of a hearing. The courts have 5 days from the receipt of a mediation request to notify the Office of Administrative Hearings, who must then schedule the mediation hearing within 60 days. As a result, the cumulative mediation hearing outcomes through Jan. 19, 2011 shown below relate to lender order to docket foreclosure filings of prior months.

Closed Mediation Cases	
Total	317
Resolutions	111
Non-Resolutions	206

Non-Resolutions		206
Cancelled		30
Withdrawn		3
Default/Homeowner No-Show		52
No Settlement/Contingent Resolutions		121

Resolutions		111
Cash for Keys		4
Deed in Lieu		2
Forbearance/Repay Plan		19
Foreclosure Dismissal-Lender		18
HAMP Mod- Lower		3
Home Sold- Sale		6
Non-HAMP Mod- Higher		12
Non-HAMP Mod- Lower		22
Non-HAMP Mod- Same		4
Partial Claim		3
Refinanced		2
Reinstate- Mortgage Current		1
Withdrawn-Agreement Reached		15

*Contingent Resolutions are those that require a borrower to take a specific action by a specific time frame in order to reach a resolution with the lender. In late January, OAH began to track this category of “Potential Resolutions” separately from “Non- Resolutions” and future reports will reflect that.

Source: Office of Administrative Hearings

9. The true cost of foreclosures

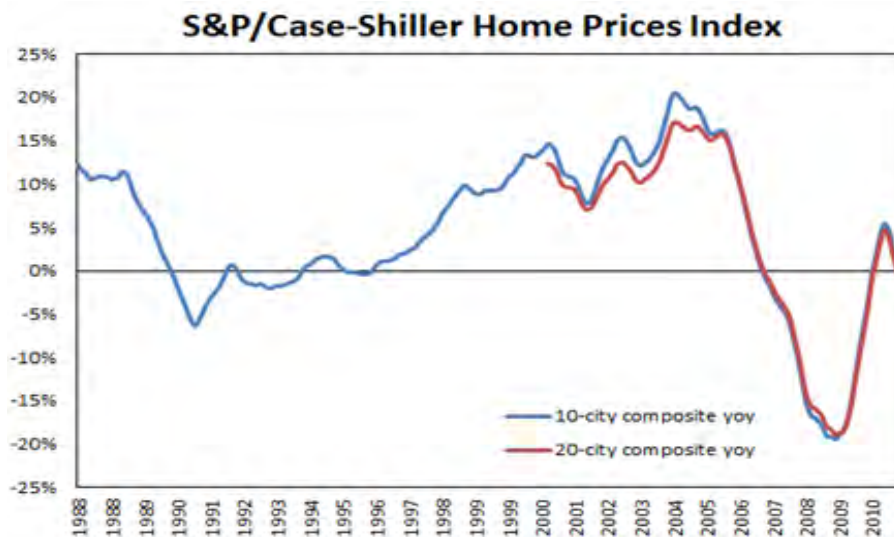
Foreclosed borrowers face deteriorated credit ratings, and lower prospects in credit, employment, and rental housing markets, which often use credit ratings as an assessment tool. Foreclosures also impose a significant cost on lenders as well as local governments. Costs borne by lenders include the opportunity cost of principal and interest not yet received, servicing costs, legal costs, costs of property maintenance and costs of property disposition.

Foreclosure causes a decline in both the value of the foreclosed house, which was estimated at 27% by Harvard University in 2008 and is likely higher today. The longer a lender owns the property, the greater the decline. The U.S. Treasury reported in 2009 that property foreclosures also negatively impact neighboring house values by as much as 9%. The closer the foreclosed house is and the greater the number of foreclosed houses in the neighborhood, the greater the impact.

In addition, foreclosures, particularly in lower income neighborhoods, are likely to result in vacant or abandoned homes, which negatively impact the community. Reduced property values and the resulting lower tax base, along with increased local government expenditures related to additional policing of vacant properties and code enforcement, contribute to the growing social costs of foreclosures.

10. The housing outlook is still poor

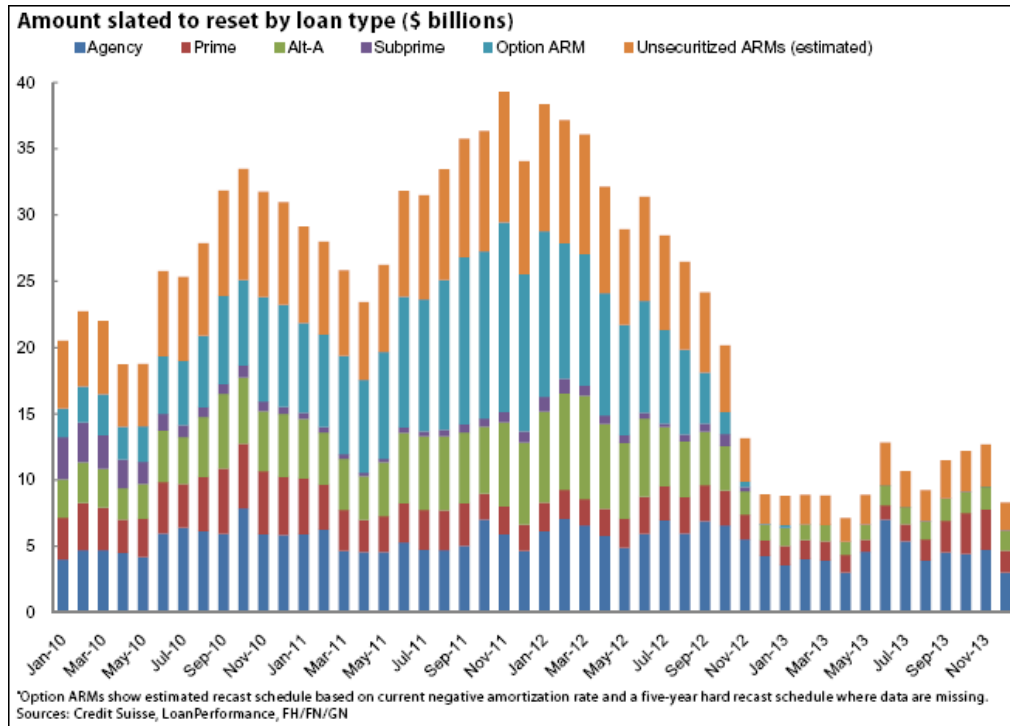
After some initial recovery, house prices started to decline again in mid 2010. The Standard & Poor's/Case-Shiller composite index of seasonally-adjusted U.S. single-family house prices for November, 2010 was released on January 25, 2011. As shown below, the index declined for November, the fifth straight month in a row.



Source: Standard & Poor's/Case-Shiller

The housing market has been struggling since home-buyer tax credits expired at the end of 2010 (to take advantage of the tax credits, buyers had to sign purchase contracts by April 30). Housing analysts are predicting the apparent “double dip” in housing prices to be confirmed by spring.

In addition, Credit Suisse reports that there is still a significant inventory of Adjustable Rate Mortgages (ARMs) scheduled to reset their interest rates over the next two years, with the peak projected for November 2011, as shown below. For many borrowers, the interest rate adjustment is expected to be minimal given the expectation that benchmark interest rates will remain low. However, if international or national events cause interest rates to increase, it could trigger a significant number of additional foreclosures.



At much greater risk of delinquency and foreclosure are option ARM mortgages, where borrowers initially have the option of making a minimum payment less than the interest on the loan. When the minimum payment option disappears, usually after 5 years, the homeowner’s monthly mortgage expense “recasts” to a substantially higher amount, regardless of what interest rates do. To the extent that the borrower pays less than the interest on the mortgage, the loan principal grows over time. If the principal cap in the mortgage is reached on an option ARM, the loan recasts earlier than scheduled. Option ARMs are of particular concern for so-called strategic defaults - if the amount a borrower owes on a loan goes up while the value of the home is decreasing, there is a heightened risk that borrowers may decide to walk away from their home, leaving the bank to deal with the loss.

Borrowers who decide to strategically default do so because they assume that the value of their home will not recover to the original purchase price for many years, that they can rent at a much cheaper cost and that they can save significant amounts of money by stopping mortgage payments before a foreclosure becomes effective. Morgan Stanley has estimated that 12% of all defaults were strategic defaults by the end of 2009. This percentage is expected to increase over time. Studies have shown that the elderly, the highly-educated and those with high credit scores are more likely to strategically default. Strategic defaults are also more likely from borrowers with a higher original loan balance and/or larger negative equity.

11. Conclusion

Given the factors discussed above, Maryland’s housing market is expected to continue to exhibit instability due to foreclosures through at least 2012. It is vitally important to continue to employ cost effective strategies such as outreach activities and grants to housing counselors to assist homeowners to stay in their homes or provide a soft landing through loss mitigation. These efforts not only assist Maryland citizens, they also support housing values, local tax revenues and neighborhood quality and limit local government expenses.