

Senate Business and Commerce Committee

Mortgage Loan Servicing

Texas Department of Savings and Mortgage Lending

Testimony of:

Douglas B. Foster – Commissioner

October 25, 2010

Statutory Mandates

The Department of Savings and Mortgage Lending's mission is to protect consumer interests while ensuring a safe and sound, and compliant system of savings banks, mortgage brokers and mortgage bankers, facilitating the credit necessary to support the residential housing and real estate financial needs of Texas.

★ State Savings Banks and Savings and Loans

- ❖ Chapters 61 and 91 of the Texas Finance Code require the Commissioner to examine each state savings bank and savings and loan to safeguard the interests of depositors, creditors, shareholders, and other parties.

★ Mortgage Company Residential Mortgage Loan Originators

- ❖ Chapter 156 of the Texas Finance Code requires the Commissioner to license and examine RMLOs, and to resolve consumer complaints relating to all residential mortgage loan originators. This program was initiated in fiscal year 2000; examinations were added in fiscal year 2002 and additional license types were added in 2010.

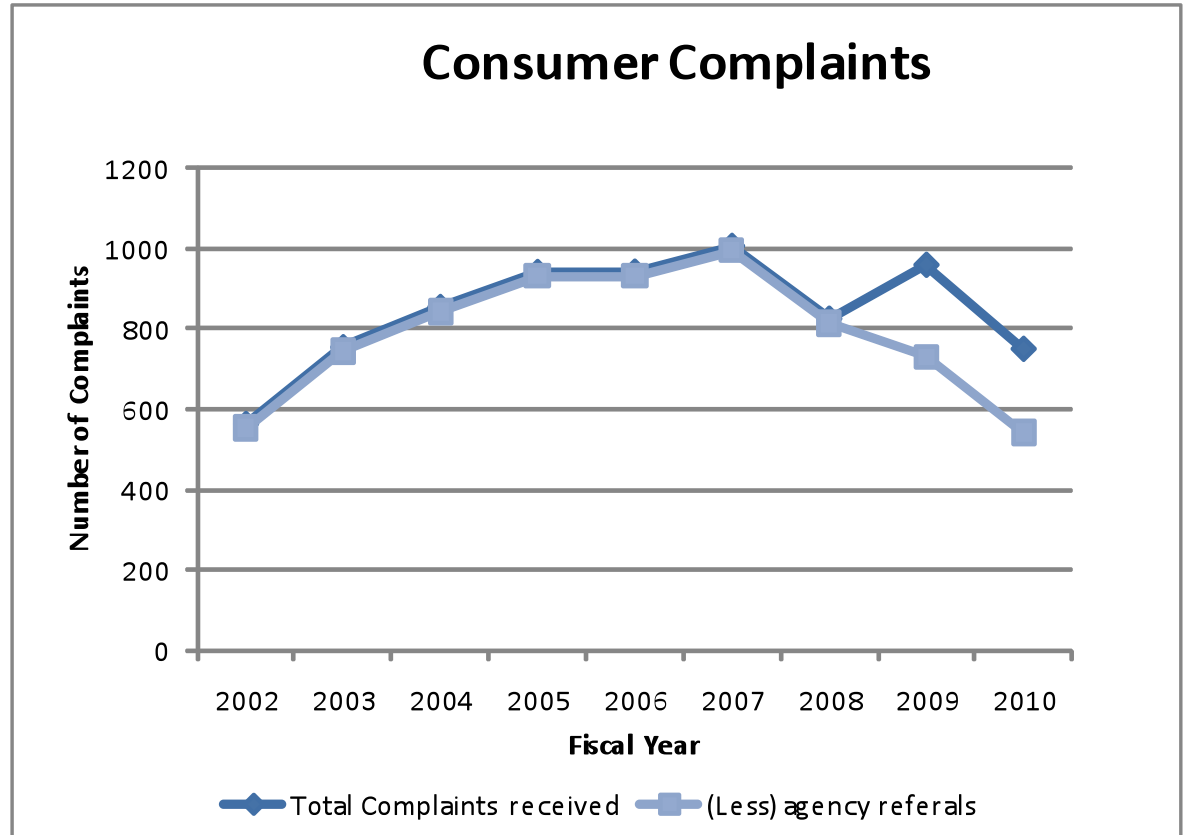
★ Mortgage Bankers Residential Mortgage Loan Originators

- ❖ Chapter 157 of the Texas Finance Code requires the Commissioner to register all mortgage bankers operating in the State of Texas and resolve consumer complaints that are filed with the Commissioner. This program was initiated in fiscal year 2004 and examinations in 2010.

Consumer Complaints Received

The Department's responses to inquiries and opinions peaked in fiscal year 2005 at 706,718, but have increased again this year due to the significant changes resulting from transition to the NMLS. The time and effort devoted to consumer complaints tallied in the adjacent chart is much more involved.

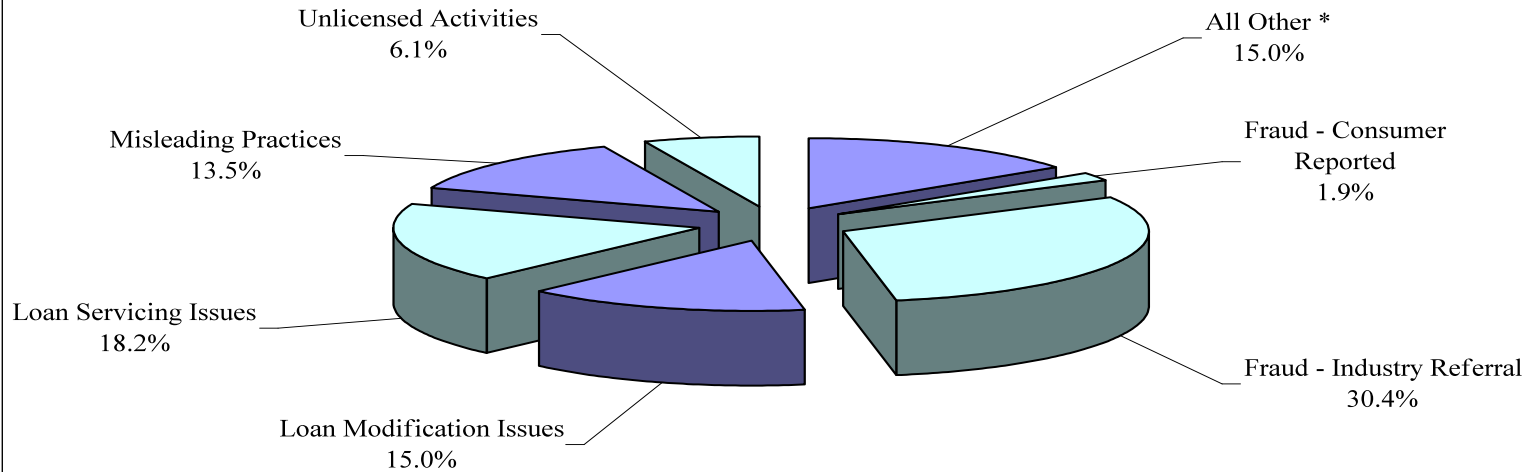
New areas of concern have arisen as the composition of complaints has shifted in recent years. Fraud complaints remain a major component; however, the primary source is no longer consumers but other regulators based on events that occurred many years ago. When these older issues are removed the volume of new complaints shows a parallel decline to the licensee population. Additionally, complaints based on loan servicing issues have increased.



Profile of All Mortgage Complaints Received

Nature of Complaints Received - Fiscal Year 2010

(Complaints Received 09-01-2009 to 08-31-2010)



Total complaints received in Fiscal Year 2010 = 802

* The "All Other" category includes improper advertising, permissible charges & fees, bait & switch, refunds & file transfers, inadequate disclosures, failure to pay appraisers/vendors, sponsor issues, identity theft, customer relations issues, and complaints against State Savings Banks (13).

Profile of Mortgage Servicing Complaints

The most common loan servicing inquiries and complaints received by the Department involve:

- Failure to approve loan modifications
- Failure to post payments timely/properly
- Failure to properly manage escrow accounts for taxes and insurance
- Improper foreclosure
- Failure to timely release insurance claim funds
- Refusal to honor over 65 or disability property tax deferrals

Profile of Mortgage Servicing Complaints

Department staff assist homeowners who inquire or complain against providers not under the Department's jurisdiction by:

- Providing the homeowner with contact information to the appropriate federal regulator (OCC, OTS, FTC)
- Providing the homeowner with direct contact information to individuals within the company
- Contacting the company on the homeowner's behalf
- Referring the homeowner to a HUD-approved counseling organization
- Informing the homeowner of specific federal or state laws and regulations relevant to their issues

Registered Mortgage Originators / Servicers

❖ Registered Mortgage Originators / who also are Servicers

GMAC Mortgage	(December 2003)
Nationstar Mortgage	(February 2004)
21 st Mortgage Corp.	(February 2004)
PHH Mortgage Corp.	(January 2005)
Vanderbilt Mortgage & Finance	(June 2006)
Carrington Mortgage Services	(September 2008)

Mortgage Servicers Voluntarily Registered

❖ Mortgage Servicers Voluntarily Registered

EMC Mortgage Corp	(February 2004)
Saxon Mortgage	(February 2004)
Litton Loan Servicing	(November 2006)
Vericrest Financial	(November 2008)
Residential Credit Solutions	(May 2009)

❖ A total of 283 formal servicing complaints have been opened on voluntarily registered Mortgage Servicers.

Top 20 Residential Mortgage Servicers in the Country

Servicer	Market Share
Bank of America*	21.30%
Wells Fargo & Co.*	17.72%
Chase*	13.77%
CitiMortgage, Inc.*	7.09%
Residential Capital, LLC (GMAC)	3.71%
U.S. Bank Home Mortgage*	1.85%
SunTrust Mortgage Inc.*	1.74%
PNC Bank / National City Mortgage*	1.56%
PHH Mortgage	1.49%
OneWest Financial*	1.23%
MetLife Home Loans*	1.02%
Aurora Loan Services, Inc.*	.94%
American Home Mortgage Servicing	.93%
Cenlar FSB*	.87%
Branch Banking and Trust Co.*	.86%
Dovenmuehle Mortgage	.74%
Annaly Capital Investment	.64%
HSBC Mortgage Corp. USA	.62%
Fifth Third Mortgage *	.58%
Flagstar Bank FSB*	.56%

*** Market share of above servicers that would not be subject to state oversight 71.09%**

Top Residential 2nd Lien Mortgage Servicers in the Country

2nd Lien Servicer

Regions Mortgage, Inc.
Huntington Mortgage
E-Trade
M&I Mortgage
Navy Federal Credit Union
Ocwen Loan Servicing LLC.
Associated Bank
TCF Mortgage Corp.
Saxon Mortgage Services
Zion First National Bank
Fulton Financial
Select Portfolio Services
Homeq Servicing Corp.
Bank of Hawaii

- **2nd Lien list excludes servicers included on the top 20 first lien residential servicing list**

Residential Mortgage Servicers in the AGs Order

- ❖ Mortgage Servicers not on Top 20 List Slide but on Attorney Generals demand letter list

American General Finance

Carrington Mortgage Services

First Horizon National (D)

Home Loan Services

Litton Loan Servicing

Midland Mortgage (D)

Nationstar Mortgage

Saxon Mortgage

Vanderbilt Mortgage & Finance

Wilshire Credit

AmTrust Mortgage

EMC Mortgage (D)

Ally Financial / GMAC (D)

HomeEq Servicing

MGC Mortgage (D)

MorEquity

Ocwen Loan Servicing

Select Portfolio Services

Washington Mutual (D)

(D) Affiliate or subsidiary of a Depository Institution

Mortgage Servicing Statutory Powers in other States

★ Arkansas

Fair Mortgage Lending Act 23-29, et seq

- ❖ License required
- ❖ Consumer complaint authority
- ❖ Examination authority but not conducting examinations at this time

★ Hawaii

Hawaii Revised Statutes Chapter 45M-Mortgage Servicers

- ❖ License required
- ❖ Consumer complaint authority began 7/1/10
- ❖ Examination authority but not conducting examinations at this time

★ Iowa

Iowa Code Chapter 535B

- ❖ License required
- ❖ Consumer complaint authority
- ❖ Examination authority but not conducting examinations at this time

★ Kentucky

KRS 286.8-030

- ❖ License required
- ❖ Consumer complaint authority
- ❖ Examination authority but not conducting examinations at this time

This is a sample of states' authority relating to mortgage loan servicers. It is not an exhaustive list.

The Department continues to research regulation of mortgage loan servicers by states.

Mortgage Servicing Statutory Powers in other States

★ Massachusetts

MA General Laws Chapter 93 sec 24-28 (24F-27 not applicable)

- ❖ Registration required
- ❖ Consumer complaint authority
- ❖ Examination authority but not conducting examinations at this time

★ Mississippi

MS S.A.F.E./House Bill 223

- ❖ License required
- ❖ Consumer complaint authority
- ❖ Examination authority and currently conducting examinations

★ Utah

Utah Code Ann sec 70D-2-1-Mortgage Lending and Servicing Act

- ❖ Written notification filed with the commissioner containing statutory required information
- ❖ Consumer complaint authority
- ❖ Examination authority but not conducting examinations at this time

★ Washington

Consumer Law Act Chapter 31.04

- ❖ License required
- ❖ Consumer complaint authority
- ❖ Examination authority but not conducting examinations at this time (preparing servicer exam policies and procedures in order to begin examinations)

Primary Federal Laws Applicable to Mortgage Servicers

- ❖ Real Estate Settlement & Procedures Act (RESPA)

 - Escrow Requirements

 - Servicing Transfer Requirements

 - Qualified Written Request (Dispute Resolution)

- ❖ Fair Debt Collection Practices Act

 - Harassment or Abuses

 - False Misleading Representation

 - Unfair Practices

- ❖ Fair Credit Reporting Act

 - Information Furnishers

Property Tax deferral for over 65 years old