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BANKER & TRADESMAN

THE REAL ESTATE, BANKING AND COMMERCIAL WEEKLY FOR MASSACHUSETTS

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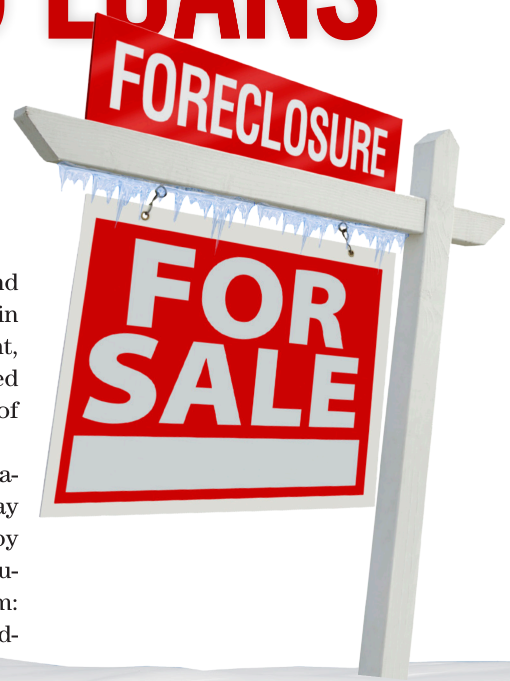
2014 FORECLOSURE GLUT DUE TO PAST BAD LOANS

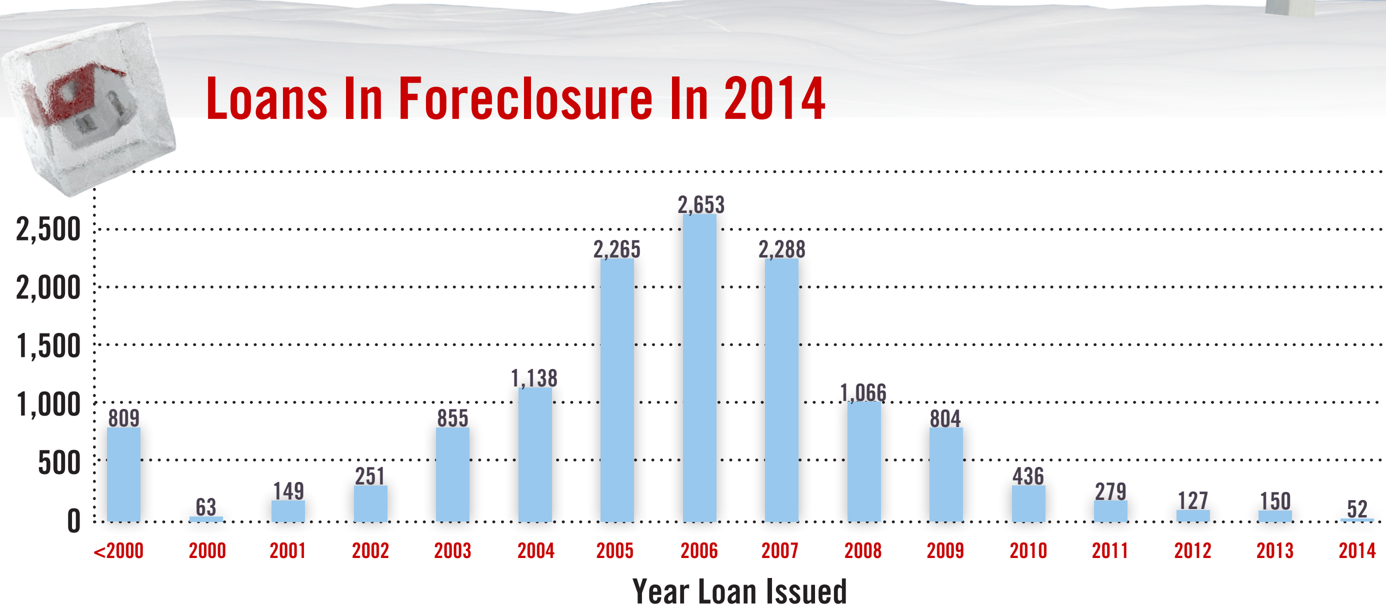
Three-Quarters Of Current Foreclosures Date To Mid-2000s



BY COLLEEN M. SULLIVAN
BANKER & TRADESMAN STAFF

Much like the snow clouds over Boston, the lingering gloom of the foreclosure crisis never quite seems to let up – and a causal reading of the headlines might lead one to suppose it's actually getting worse. Compared to the same time the prior year, foreclosure petitions nearly doubled in December, while foreclosure actions were up 15 percent and foreclosure deeds – the final stage in the proceedings – were up 38 percent, according to the latest data provided by The Warren Group, publisher of Banker & Tradesman.

But a look behind the surface statistics reveals that the while the Bay State may still be being battered by foreclosures, in reality, it's continuing to weather the same old storm: Loans from the mid-2000s, when lend-



ing standards were loosened and home sales boomed, make up the vast majority of distressed properties today. Of the more than 13,000 properties which were in some stage of the foreclosure process in 2014, more than 75 percent had mortgages originated between 2003 and 2008. (The Bay State housing market peaked in the fall of 2005, while the financial crisis of September 2008 marked the beginning of the nationwide housing crash.)

Post-crash loans, the bulk of which were issued under much tougher underwriting standards, made up only 13.8 percent of the loans in some stage of foreclosure proceedings in 2014. (The remainder of the distressed properties, or 9.5 percent, had loans originated prior to 2003.)

"Once they tightened up [underwriting standards] in 2008 or so, the newer loans just haven't had as many problems," an attorney with a firm that handles many foreclosures told Banker & Tradesman. Even the newer cases that are being opened often involve loans that were originated several years ago, often with homeowners who may have attempted to have their loan modified and found they still couldn't keep up with the payments.

While the backlog of old troubled loans is still being cleared, fresher cases of distress are sparse on the ground. "Short sales are way down. In terms of new foreclosures, new distressed sales, it's way down," said Rich Vetstein, a Framingham real estate attorney and author of the Massachusetts Real Estate Law Blog. In his own practice, "the last short sale I did was probably in the early fall – I haven't seen any since."

A Long Road To Foreclosure

There are several reasons why so many of today's foreclosures involve loans almost a decade old. Post housing crash, both state and federal lawmakers passed waves of regulatory changes which have upended servicers and attorney's former foreclosure practices, extending the amount of time homeowners have to make good on a default, and requiring services to evaluate loans for potential modification and offer such mods to homeowners.

In the Bay State, a 2012 law extended a homeowner's right to cure a default to 150 days in most cases, in addition to requiring banks to evaluate homeowners for modification and provide proof the loan was unsuitable for a mod before proceeding with foreclosure if they did not offer one. The state's Division of Banks did not issue final rules on how to fulfill the new requirements for several months after the law's passage, and banks were reluctant begin foreclosure proceedings without being sure of their ground. Given extended foreclosure timelines, a foreclosure begun in 2012 may well not have been completed until 2014 – or beyond.

In addition, federal regulators, including the Consumer Financial Protection Bureau, have also been revising their foreclosure regulations, and servicers of distressed loans have come under increasingly strict scrutiny in recent months by both federal and state regulators anxious to ensure they fulfilling their legal obligations. Earlier this year, the California state attorney general attempted to suspend Ocwen Financial's operations in that state, alleging abuses. Ocwen is one of the largest servicers of distressed loans in the country. That regulatory pressure has slowed down national servicers' foreclosure processes, attorneys say.

Despite the fact that many of today's distressed properties first went into default many months ago, experts suspect it may be years before the level of foreclosures returns to pre-crisis norms. Nationally, despite a 33 percent drop in the foreclosure inventory over the past year, foreclosure rates remain more than double their pre-crisis norms, according to data from real estate analytics firm CoreLogic.

The picture in Massachusetts is much the same. One experienced attorney who specializes in foreclosures told Banker & Tradesman that prior to the crash, Bay State foreclosures were completed in an average of 150 days; his own firm was often able to complete them in half that time. With all the regulatory changes and reforms brought about in response to the crisis, it currently takes them more than 400 days – more than a year – to complete a foreclosure. That figure is an average; if a homeowner hires and attorney to contest the foreclosure or if the lenders offers them a loan modification, the time between a loan defaulting and a foreclosure being completed can stretch out for years.

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