# Servicers Continue to Wrongfully Initiate Foreclosures

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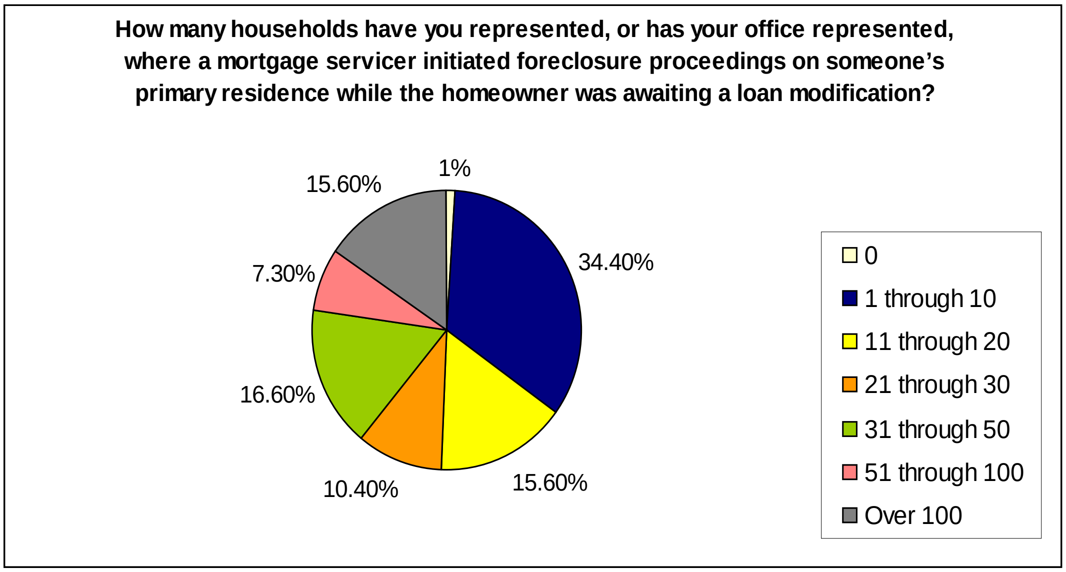
A November 2010 survey by the National Association of Consumer Advocates (NACA)[1] and the National Consumer Law Center (NCLC)[2] demonstrates that **mortgage servicers often initiate foreclosure proceedings improperly, either while a homeowner is awaiting a loan modification or due to improper fees or payment processing.**

***Foreclosure Initiation During the Loan Modification Process Is Still a Substantial Problem***

- Almost 99% of consumer attorneys from 34 states[3] represent homeowners placed in foreclosure while awaiting a loan modification.
- Over 15% of those respondents represent over 100 households suffering from this situation.
- Over 65% of the survey respondents stated that they represent more than 10 households who had been placed in foreclosure while awaiting a loan modification.
- Over 47% of the survey respondents stated that they represent more than 20 households who had been placed in foreclosure while awaiting a loan modification.
- In total, survey respondents reported representing over 2,500 homeowners placed in foreclosure while awaiting a loan modification.




[1] The **National Association of Consumer Advocates** (NACA) is a nationwide membership organization of consumer protection attorneys who represent and have represented thousands of consumers victimized by fraudulent, abusive, and predatory business practices. As an organization fully committed to promoting justice for consumers, NACA is actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

[2] The **National Consumer Law Center, Inc.** (NCLC) is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low income consumers across the country. NCLC has provided oral and written testimony to Congressional Committees on foreclosure and numerous related topics. NCLC publishes a series of eighteen practice treatises and annual supplements on consumer credit laws.

[3] Ninety six attorneys were surveyed from the following states: AL, CA, CO, CT, DC, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, MO, MT, NV, NM, NY, NC, OH, OR, PA, SC, TX, UT, VT, VA, WA, WV, and WI.

***Payment and Fee Abuses Fuel Foreclosures***

In addition to abuses in the modification process, the survey also highlights abusive fees and improper payment processing. For years, consumer advocates have documented a pattern of shoddy, abusive and illegal practices in the mortgage servicing industry, including force-placing of expensive homeowner's insurance, wrongful application of payments, and inflated or baseless charging of property inspection and late fees. Improper fees frequently lead to foreclosure. Servicers frequently place homeowners who are current or making payments as agreed into foreclosure. **The survey results demonstrate these practices are widespread.**

- Over half of respondents represent homeowners who were placed into foreclosure due to misapplication of payments.
- Over half of respondents represent homeowners who were placed into foreclosure due to improper fees (e.g. late fees, broker-price opinions, inspection fees, attorney's fees and other fees).
- Over half of respondents represent homeowners who were placed into foreclosure due to force-placed insurance.
- In total, survey respondents reported representing over 1,200 homeowners who had been placed into foreclosure due to misapplication of payments, improper fees, or force-placed insurance.
- Over 87% of the respondents represent homeowners who had been placed in foreclosure because the servicer did not properly accept the homeowner's payments.
- Almost 90% of the respondents represent homeowners where a mortgage servicer initiated foreclosure proceedings while the homeowner was making payments as previously agreed upon.
- In total, survey respondents reported representing over 1,800 homeowners who had been placed into foreclosure despite making payments as agreed.

***Eliminate the Dual Track System***

Too many families have lost their homes due to servicer misconduct. Immediate action by the Obama Administration, Congress, banking regulators, and federal and state law enforcement officials to rein in servicers will better serve homeowners as well as investors, communities and the entire mortgage market.

**We must eliminate the two-track system in which banks proceed with foreclosures while evaluating borrowers for a loan modification. Homeowners should be properly evaluated for a loan modification before a foreclosure is initiated and that evaluation should be completed before any foreclosure fees are incurred. Servicers must not be allowed to profit from improper fees and unnecessary foreclosure initiation.**

*For more information, contact: Alys Cohen, NCLC Staff Attorney, acohen@nclcdc.org; Ellen Taverna, NACA Legislative Associate, ellen@naca.net; Diane Thompson, Of Counsel, NCLC, dthompson@nclc.org.*