

# HOME INSECURITY: FORECLOSURE GROWTH IN OHIO 2010

A REPORT FROM  
POLICY MATTERS OHIO

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MARCH, 2010

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## ACKNOWLEDGEMENTS

Amy Hanauer and Zach Schiller of Policy Matters provided helpful suggestions and editing for this report. Bill Faith of COHHIO, Kermit Lind of the Cleveland-Marshall School of Law, Kathleen Engel of the Suffolk University School of Law, Peter Iskin of the Cleveland Legal Aid Society, and Uriah King of the Coalition for Responsible Lending provided helpful critiques on drafts and sections of this report. We would also like to thank Christine Bratton of the Supreme Court of Ohio for sending foreclosure filing statistics the court had collected. The views expressed in this report are those of the author.

As always, we are extremely grateful to the Cleveland and Kellogg Foundations for their generous support of our research and outreach on asset building and protection issues.

**POLICY MATTERS OHIO**, the publisher of this study, is a nonprofit, nonpartisan research institute dedicated to bridging the gap between research and policy in Ohio. Policy Matters seeks to broaden the debate about economic policy in Ohio by providing quantitative and qualitative analysis of important issues facing working people in the state. Other areas of inquiry have included unemployment compensation, wages, taxes, education, trade and economic development.

## Executive Summary

For the fourteenth straight year, Ohio experienced an increase in new foreclosure filings in 2009. What began as mostly an urban county problem in the mid 1990s, has erupted into triple-digit 10-year growth rates in every Ohio county. Ohio set a new foreclosure filing record in 2009, topping 89,000 filings. This represents a major, and ongoing blow against families' main source of savings and against stability. This report analyzes the new foreclosure filings statistics in Ohio along with some of the latest trends in foreclosure prevention efforts.

The report finds the following foreclosure trends:

- Foreclosure filings continued to grow in 2009 with 89,053 new foreclosure filings, a 3.8 percent increase since 2008.
- From 1995-2009, Ohio foreclosure filings quadrupled.
- There was one foreclosure filing for every 56 housing units in the state, compared to one for every 60 in 2008.
- Cuyahoga County recorded the most foreclosure filings and filings per person for the fifth straight year.
- Non-urban areas had the highest foreclosure growth rates. The 60 counties with a population below 100,000 saw overall foreclosure filing growth rate of 8.78 percent, up from 3.3 percent the previous year.
- Seven of the top ten counties in foreclosure-filing growth – each of which saw at least a 26 percent increase last year – were in the Northwest and Appalachian regions of the state.

The report also finds the following housing trends:

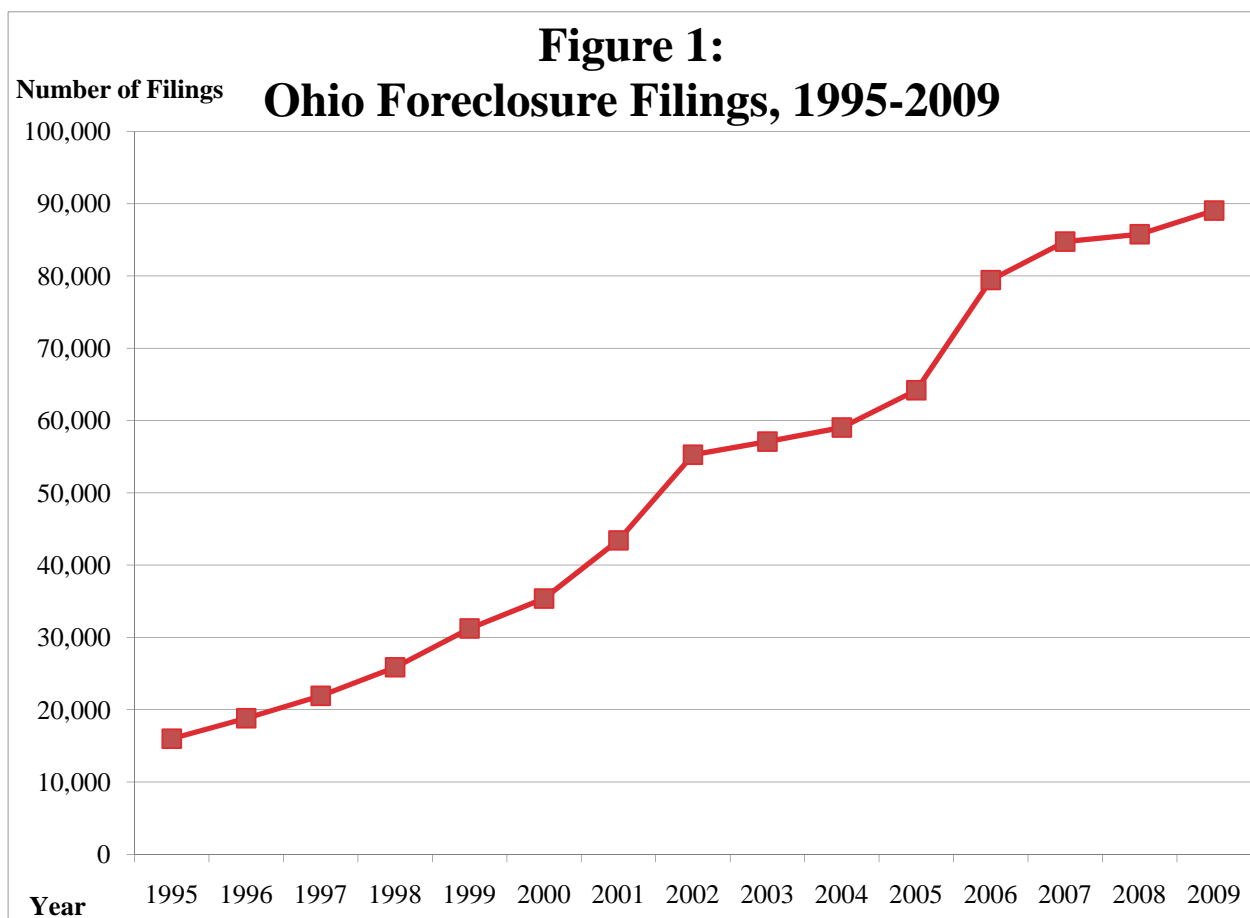
- Nearly one in every three Ohio mortgage holders is “under water” or has negative equity in their home.
- One in every six mortgage holders is either 30 days delinquent or in foreclosure, an increase of 36 percent from 2007.
- Ohio ranks at the bottom of states for successful mortgage modifications under the federal HAMP program.

The report recommends that the Ohio legislature pass reasonable reforms to encourage real loan modifications and reduce the foreclosure filing rate. These include regulating loan servicers, funding housing counselors, increasing tenant notifications and protections during foreclosure, and preventing foreclosure rescue scams.

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### *Data analysis*

Ohio foreclosure filings grew again last year by 3.8 percent. In 2009, there were 89,053 new foreclosure filings compared to 85,773 filings in 2008.<sup>1</sup> This increase in new foreclosure filings continues a steady trend of increases in foreclosure filings every year and it comes at a time when the foreclosure rate was already at an unprecedented high. The number of foreclosures in the state has been and remains at crisis levels. Since 1995, the number of filings has at least quadrupled in 81 of Ohio's 88 counties and has more than quintupled statewide (see Figure 1). Filings grew in 64 of Ohio's 88 counties in 2009, and increased by double-digit rates in 34 counties. There was one foreclosure filing for every 56 housing units in the state, compared to one for every 60 in 2008.



Source: Ohio Supreme Court, Policy Matters Ohio review of filings in U.S. district courts. Data include federal filings beginning in 2004. Few such filings were made in previous years, and none were counted for 2008 and 2009. See data note, p.14)

<sup>1</sup> See note on the data at the end of the report. The increase shown here differs from the figure provided by the Ohio Supreme Court for all years but 2008 and 2009 because this report also includes filings in the federal courts.

For the fifth year in a row Cuyahoga County topped the list of foreclosures per 1,000 people (11.04) and overall new foreclosure filings (14,171). It was followed by Lucas County (10.2) for the second year in a row. The most notable increase occurred in Clinton County, which moved from 30th to third. Filings per 1,000 persons there increased from 6.76 in 2008 to 9.19 in 2009.<sup>2</sup> Most of the counties, eight, were also on the list in 2008.

The number of foreclosure filings is high and growing in urban, rural and suburban counties alike. However, in 2008 and 2009, urban counties no longer totally dominated the list of hardest-hit counties. Among the top ten counties in filings per person in 2009 were five large urban counties, while in 2007 large urban counties held nine of the ten spots for highest foreclosure filing levels. For the first time, the largest counties were not all represented in the top 20 list of filings per person. Specifically, urban counties such as Stark (32), Mahoning (22), and Lake (25) were in the top 15 of total county populations but not in the top 20 rankings of foreclosure filings per person. Smaller counties such as Fayette (13) and Paulding (16) were in the bottom ten of county populations but in the top 20 of filings per person.

<b>Counties</b>	<b>2008 Population</b>	<b>2009 Filings</b>	<b>Filings per 1,000 Population</b>
<b>Cuyahoga</b>	1,283,925	14,171	11.04
<b>Lucas</b>	440,456	4,491	10.20
<b>Clinton</b>	43,200	397	9.19
<b>Highland</b>	42,349	381	9.00
<b>Preble</b>	41,643	370	8.89
<b>Marion</b>	65,768	584	8.88
<b>Lorain</b>	304,373	2,696	8.86
<b>Montgomery</b>	534,626	4,703	8.80
<b>Butler</b>	360,765	3,162	8.76
<b>Brown</b>	43,960	385	8.76

Source: Ohio Supreme Court, U.S. Census Bureau. The population data is based on 2008 population because 2009 population data was not yet available as of the date of this report.

While urban counties still have comparatively high foreclosure rates, foreclosure filings are growing more quickly in counties that are less urban. With the exception of Wood and Wayne Counties with populations of 125,340 and 113,812, respectively, the other top ten counties in foreclosure growth rate had populations between 13,000 and 61,000 people. Filing growth tends to be spread among different counties from year to year. The top ten fastest growing counties in 2009 were different from the fastest growing counties in 2008. For instance, Allen County, which saw the fastest growth in 2008, fell to 84<sup>th</sup> in 2009. In 2009, Morgan County saw the largest foreclosure growth with a 129 percent increase from 2008 despite being ranked 85<sup>th</sup> in growth from 2007 to 2008.

<sup>2</sup> The foreclosure growth rate in Clinton County is likely tied, at least in part, to the closing of the DHL hub in Wilmington where an estimated 8,000 jobs were lost. See Gary Scott, "Small Ohio Town Despairs as DHL Cuts Jobs," *NPR* (August 11, 2008): <http://www.npr.org/templates/story/story.php?storyId=93505888>.

With the exception of Clinton County, the counties with the greatest growth differed from those with the highest rates. This difference between counties with the highest rates and greatest growth repeats the pattern from the past four years. All of the top ten growth counties in 2009 had higher rates than the top counties in 2008. In 2008, most of the counties with the greatest growth were in the Northwest or the Appalachian regions of the state. These two regions accounted for seven counties with the greatest growth between 2008 and 2009 (see Table 2).

<b>County</b>	<b>2008 Filings</b>	<b>2009 Filings</b>	<b>Change 2008-2009</b>	<b>Area of Ohio</b>
<b>Morgan</b>	37	85	129.7%	Appalachia
<b>Vinton</b>	43	65	51.2%	Appalachia
<b>Madison</b>	198	273	37.9%	Central
<b>Carroll</b>	122	168	37.7%	Appalachia
<b>Williams</b>	199	273	37.2%	Northwest
<b>Clinton</b>	291	397	36.4%	Southwest
<b>Wood</b>	582	750	28.9%	Northwest
<b>Wayne</b>	462	588	27.3%	Northeast
<b>Sandusky</b>	321	408	27.1%	Northwest
<b>Fulton</b>	216	273	26.4%	Northwest

Source: Ohio Supreme Court, U.S. Census Bureau

The ten biggest urban counties saw the combined number of new foreclosure filings slightly increase to 54,524 from 53,776 in 2008. These counties, all with populations over 240,000, accounted for 61 percent of filings in Ohio last year but represented only 53 percent of the 2008 population. Of the ten largest urban counties, only three saw growth rates higher than the state average (3.8 percent) led by Summit County at 12.6 percent. Eight of Ohio's ten largest urban counties, Cuyahoga, Lucas, Lorain, Montgomery, Butler, Summit, Franklin, and Hamilton, experienced a higher foreclosure filing rate per 1,000 people than the average (7.75). All of the urban counties but Montgomery (91.4 percent) and Mahoning (89.7 percent) experienced triple-digit foreclosure growth in the last ten years. Of all the urban counties, Lorain saw the largest ten-year growth in foreclosure filings with more than 187 percent. In 2009, Stark, Montgomery, and Mahoning Counties experienced one-year declines of 10.5, 9.5, and 4.4 percent, respectively. Table 3, below, shows 2009 foreclosure filings in Ohio's ten largest counties and increases since 2000:

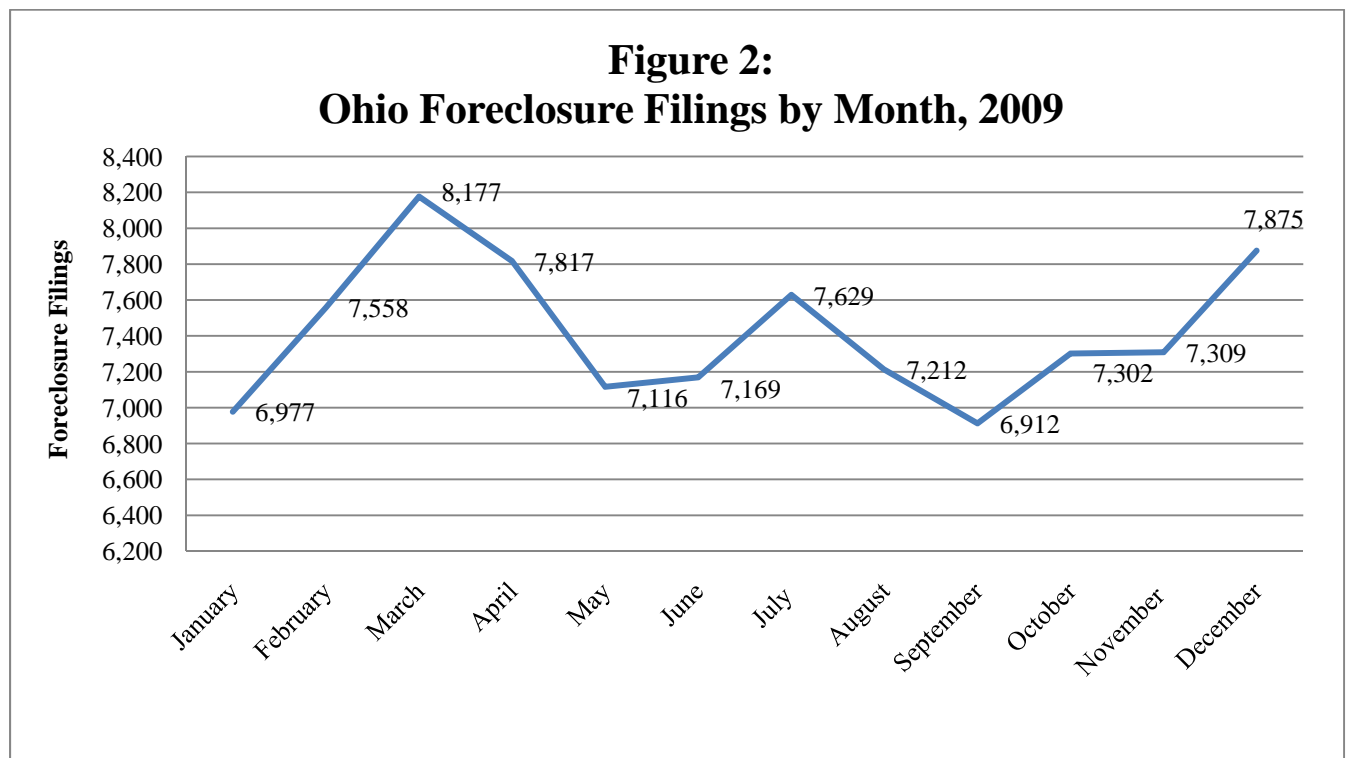
**Table 3**  
**Foreclosure Filings Per 1,000 Population- Largest Counties, 2009**

	<b>2008 Population</b>	<b>2000 Filings</b>	<b>2009 Filings</b>	<b>Percent Change, 2000-2009</b>	<b>Percent Change 2008-2009</b>	<b>Filings Per 1,000 Population, 2009</b>
<b>Cuyahoga</b>	1,283,925	5,900	14,171	140.2%	2.3%	11.04
<b>Franklin</b>	1,129,067	3,832	9,499	147.9%	2.1%	8.41
<b>Hamilton</b>	851,494	2,770	6,714	142.4%	0.6%	7.88
<b>Summit</b>	542,562	1,851	4,633	150.3%	12.6%	8.54
<b>Montgomery</b>	534,626	2,457	4,703	91.4%	-9.5%	8.80
<b>Lucas</b>	440,456	1,883	4,491	138.5%	3.0%	10.20
<b>Stark</b>	379,214	1,247	2,700	116.5%	-10.5%	7.12
<b>Butler</b>	360,765	1,193	3,162	165.0%	5.9%	8.76
<b>Lorain</b>	304,373	938	2,696	187.4%	10.4%	8.86
<b>Mahoning</b>	237,978	925	1,755	89.7%	-4.4%	7.37
<b>Totals</b>	6,064,460	22,996	54,524	137.1%	1.3%	8.99

Source: Ohio Supreme Court, U.S. Census Bureau, Policy Matters Ohio review of filings in U.S. district courts. The population data is based on 2008 population because 2009 population data was not yet available as of the date of this report.

As mentioned, the highest growth rate in foreclosure filings did not occur in the large urban counties, but occurred elsewhere in the state. The 40 counties with populations below 50,000 saw an overall foreclosure filing growth rate of nine percent in 2009, which is a substantial increase from the 4.9 percent growth in 2008. The 60 counties with population below 100,000 saw an overall foreclosure filing growth rate of 8.78 percent, up from 3.3 percent the previous year. As Table 5 in the appendix of this report shows, suburban and rural counties experienced higher growth rates than urban counties.

Foreclosure filings did not vary a great deal from month to month in 2009 as figure 2 shows, with a state average of 7,421 filings per month. The lowest recorded filings were in September with a total of 6,912, while the largest numbers were recorded in March with 8,177 new filings. Notably, each of the three months following September saw an increase in foreclosure filings headed into 2010.



Source: Ohio Supreme Court

### *Additional trends*

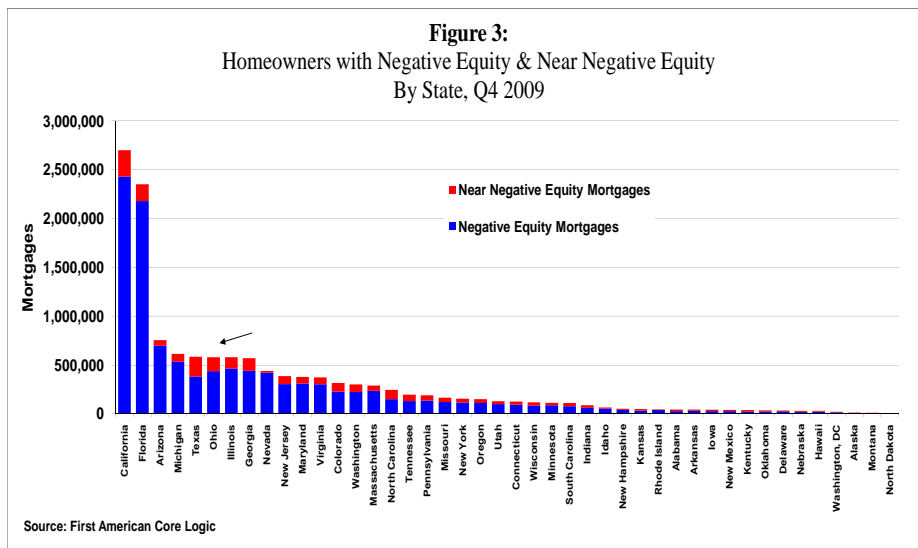
Other indicators of housing foreclosures and mortgage delinquencies imply a grim picture for Ohio. Ohio's national ranking in new foreclosures has fallen somewhat over the last three years, but the state remains among the most troubled according to the latest survey by the Mortgage Bankers Association (MBA), conducted in the fourth quarter of 2009.<sup>3</sup> The survey found that 15.7 percent of all Ohio mortgages are either actively in foreclosure or past due in their payments by at least 30 days, an increase of 36 percent from 2007. The survey also found that new foreclosure proceedings were started on 1.21 percent of home loans, ranking Ohio ninth in the nation. That percentage was up from 1.12 percent in the same quarter a year earlier. The survey indicates that other states, particularly in the Sunbelt and North Central region, now have new foreclosure rates higher than those here and the national new foreclosure rate has nearly caught up with Ohio's. However, it also shows that the share of loans in Ohio that are past due continues to climb substantially from year to year. The proportion of past-due loans grew from 7.67 percent in the fourth quarter of 2007 to 11.02 the same quarter just two years later. Those loans where payments were 90 days or more past due grew from 2.01 percent in 2007 to 4.91 percent of the total in the same period just two years later.

What began as a foreclosure crisis stemming from subprime home and equity loans has expanded to include all kinds of loans in Ohio. Subprime loans continue to be past due (27.55 percent) at higher percentages than other loans, but other mortgage types are increasingly delinquent. For instance, in the fourth quarter of 2007, 4.91 percent of prime loans were past due compared to 6.91 two years later. Barring major success with loan-modification efforts, this suggests that the number of foreclosures in

<sup>3</sup> *Mortgage Bankers Association*, "National Delinquency Survey, Fourth Quarter 2009," (February 2010).

Ohio will continue to grow. This echoes the concerns of HUD foreclosure counselors whose intake sheets more commonly find prime loans in different stages of default and foreclosure than in previous years.<sup>4</sup>

Data on home equity in Ohio is even more troubling than the current foreclosure statistics. According to the fourth quarter 2009 report by First American Core Logic, Ohio ranks sixth in the total number of home mortgages with negative or near-negative equity. Thousands of Ohioans are in homes that are worth less than what they purchased them for. More than 578,000 Ohio mortgages are “under water”, with debt exceeding current value (see Figure 3).<sup>5</sup> In percentage terms, more than 26 percent of home mortgages in Ohio have near or negative equity, ranking Ohio eleventh in the country in this category. The loan-to-value ratio in Ohio is 75 percent, meaning that Ohio mortgage holders, in total, have less than 25 percent ownership in their home mortgages.<sup>6</sup>



Negative equity poses enormous problems for homeowners because they cannot refinance or sell their homes except for a financial loss. Studies are also revealing a connection between homeowner walkways or “strategic defaults” when homeowners are under water by 25 percent or more and in locations with higher frequencies of foreclosures.<sup>7</sup> In a strategic default, homeowners can afford some degree of monthly mortgage payments but chose not to make those payments given the lack of value in the property and negative equity in the mortgage. As housing values continue to decline in Ohio, it is unlikely that many of these 500,000 home mortgages will regain positive equity without intervention.

<sup>4</sup> Kathy Hexter and Molly Schnoke “Responding to foreclosures in Cuyahoga County,” *Maxine Goodman Levin College of Urban Affairs* (September 20, 2009).

<sup>5</sup> Nick Timiros “Nearly One in Four Borrowers Underwater on Mortgages” *Wall Street Journal* (February 28, 2010): <http://blogs.wsj.com/developments/2010/02/23/nearly-one-in-four-borrowers-underwater-on-mortgage/tab/article/>.

<sup>6</sup> These statistics do not take into account homes with no mortgages.

<sup>7</sup> Luigi Guiso et al. “Moral and Social Constraints to Strategic Defaults on Mortgages” *Chicago Booth/Kellogg School* (July 2009): [http://www.financialtrustindex.org/images/Guiso\\_Sapienza\\_Zingales\\_StrategicDefault.pdf](http://www.financialtrustindex.org/images/Guiso_Sapienza_Zingales_StrategicDefault.pdf). The authors stress that negative equity may be a necessary but not a sufficient cause for strategic defaults. There are moral, social, and financial reasons to avoid default but this working paper investigates how those barriers begin to breakdown.

*The federal HAMP efforts*

The largest federal program to curb foreclosures, the Home Affordable Modification Program (HAMP), does not reveal encouraging results for Ohio (see Table 4).<sup>8</sup> According to the HAMP report in January of 2010, only 2,529 Ohioans secured a permanent modification to their mortgage. The report lists 18,451 homeowners in active trials. When the HAMP data is put into perspective with the MBA data, the results for Ohio are dismal. The percent of seriously-delinquent loans (90 days or more past due or actively in the foreclosure process) that have been permanently modified or are currently in trial modifications is less than 15 percent, ranking Ohio 48<sup>th</sup> in the country. This disparity does not include loans that are in the MBA category of 30 or 60 days past due, for which Ohio continues to rank in the top ten states.

Ranking	State	All HAMP Modifications	Seriously Delinquent Loans (4 <sup>th</sup> Quarter 2009)	Percent of Seriously Delinquent Loans Modified by HAMP
1	Rhode Island	4,444	12,880	34.5%
2	New Hampshire	4,232	12,523	33.8%
3	Maryland	31,186	97,900	31.9%
4	Massachusetts	21,435	67,612	31.7%
5	Arizona	47,438	152,874	31%
6	Minnesota	17,943	61,041	29.4%
7	Virginia	23,919	81,442	29.4%
8	Connecticut	12,120	42,013	28.9%
9	Oregon	10,885	39,498	27.6%
10	District of Columbia	1,729	6,275	27.6%
11	California	191,641	721,735	26.6%
12	Delaware	3,095	11,857	26.1%
13	Utah	8,134	31,351	25.9%
14	Illinois	49,873	192,412	25.9%
15	Washington	18,835	72,889	25.8%
16	Hawaii	3,327	13,693	24.3%
17	Nevada	25,052	103,501	24.2%
18	New York	42,483	176,573	24.1%
19	New Jersey	31,615	131,575	24%
20	Montana	1,278	5,378	23.8%
21	Georgia	37,567	162,991	23.1%
22	Colorado	13,505	58,670	23%
23	North Carolina	20,041	89,945	22.3%
24	Missouri	11,807	53,071	22.3%
25	Maine	2,538	11,608	21.9%

<sup>8</sup> *Making Home Affordable Program* "Service Performance Report Through January 2010," <http://makinghomeaffordable.gov/>.

Ranking	State	All HAMP Modifications	Seriously Delinquent Loans (4 <sup>th</sup> Quarter 2009)	Percent of Seriously Delinquent Loans Modified by HAMP
26	Wisconsin	9,587	44,648	21.5%
27	New Mexico	3,402	15,886	21.4%
28	Pennsylvania	21,910	104,462	21%
29	Vermont	691	3,309	21%
30	Michigan	32,000	153,379	21%
31	West Virginia	1,665	8,101	21%
32	South Carolina	10,387	51,037	20.4%
33	Idaho	3,843	18,910	20.3%
34	Wyoming	513	2,591	19.8%
35	Alaska	539	2,823	19.1%
36	Tennessee	10,790	60,739	17.8%
37	Texas	31,832	184,153	17.3%
38	Mississippi	3,887	22,839	17%
39	Nebraska	1,553	9,161	17%
40	Kansas	2,924	17,555	16.7%
41	Florida	116,569	701,479	16.6%
42	Alabama	6,630	40,443	16.4%
43	North Dakota	237	1,458	16.3%
44	Louisiana	5,825	36,320	16 %
45	South Dakota	448	2,848	15.3%
46	Arkansas	2,692	17,190	15.7%
47	Iowa	3,065	19,598	15.6%
48	Ohio	20,980	141,329	14.8%
49	Kentucky	4,100	30,299	13.5%
50	Indiana	10,471	79,567	13.2%
51	Oklahoma	3,011	25,355	11.9%

Source: Mortgage Bankers Association, "National Delinquency Survey, Fourth 2009," Making Home Affordable Program "Service Performance Report Through January 2010," and the Cuyahoga County Foreclosure Prevention Program.

Ohio's efforts to push modifications have increased in the last several years, but the state continues to do less than is needed. Increased notification of resources for assistance, the establishment of a toll-free state hotline, mediation efforts backed by the Ohio Supreme Court and non-binding compacts with servicers for loan modifications were positive steps but have not kept foreclosure filings statewide from continuing to rise. State laws lack the enforcement provisions to mandate that loan servicers participate in mediation or workout efforts. Specifically, three issues continue to hamper current state efforts to help homeowners. First, servicers may not need to comply with federal workout regulations because many are not federally-regulated lenders. Second, funding for housing programs is on the decline, making it harder to help homeowners through community-funded programs. With the state facing a huge deficit in its next budget, it is extremely unlikely that programs will receive increased funding at the state level. Third, divisions remain between servicers,

lenders, and federal agencies that have different goals and rules for modifications. These divisions make it hard for a homeowner to receive a loan modification when the participants are not cooperating or have competing interests.

### **Policy Recommendations**

As this and other reports have detailed, no county in Ohio remains unscathed by housing foreclosures. The data indicates that delinquencies and foreclosures will continue to rise and that federal programs have not done enough to reduce Ohio's housing woes. While there is no magic bullet to solve Ohio's grim housing situation, a mix of federal and state policy changes would help to slow housing foreclosures. There are multiple bills in the Ohio General Assembly, each with policy recommendations that would curb foreclosures. Additionally, under the federal Troubled Asset Relief Program (TARP), there are considerable resources available to help homeowners, although most of the funds have gone directly to banks and lenders.

#### *Improving federal efforts*

The federal government has used several methods to disburse funding to homeowners. The first part of the \$75 billion HAMP relief effort was slated to help owners by offering some monetary incentives for servicers who complete workouts and loan modifications or refinancing for properties worth less than mortgages. As shown by the numbers from the HAMP 2009 report, this has not worked in Ohio. The program remains voluntary, wrought with technical loopholes and exclusions, and not adequate to reach the number of Ohioans who need help. As recently as February 19, 2010, President Obama announced a plan to use \$1.5 billion in TARP funds to assist homebuyers in five states, but Ohio was not included in the program.<sup>9</sup> The program administrators told the House Oversight Subcommittee on Domestic Policy that states needed to have experienced home price decline of at least 20 percent since peak housing prices.<sup>10</sup> Ohio's home values did not peak at the same levels as the Sunbelt states and began the price decline process earlier than other states. Administrators also indicated that Ohio received previous funds, yet this money was designated for vacant and abandoned properties, not for foreclosure assistance.

A large problem with the federal efforts is their lack of ability to reduce the principal of the mortgage. Instead these programs change the interest rate, create forbearance, or extend the term of the loan. Given the negative equity of nearly one in three Ohio mortgages, these efforts will continue to fall short. However, these federal programs exemplify that there are resources available for states, but there must be flexibility in tailoring funds and programs for specific state needs. What works in states with higher home values is not working in Midwest states like Ohio. Ohio should also be receiving a portion of the \$1.5 billion in TARP funding or future funding, given the troubling data presented in this report. **We recommend that the federal government include Ohio in the TARP distribution and expand this program as needed.**

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<sup>9</sup> See John Mangels "Kucinich vows a fight over Ohio's exclusion from federal mortgage assistance program," *Plain Dealer* (February 20, 2010): [http://blog.cleveland.com/metro/2010/02/kucinich\\_vows\\_a\\_fight\\_over\\_ohi.html](http://blog.cleveland.com/metro/2010/02/kucinich_vows_a_fight_over_ohi.html) and Jack Torry "Federal housing aid won't help Ohio: New foreclosure program targets just five states," *Columbus Dispatch* (February 20, 2010): [http://www.dispatch.com/live/content/business/stories/2010/02/20/Federal-housing-aid-wont-help-Ohio\\_.html](http://www.dispatch.com/live/content/business/stories/2010/02/20/Federal-housing-aid-wont-help-Ohio_.html).

<sup>10</sup> Sabrina Eaton "Feds defend Ohio's Exclusion from Foreclosure Relief Program," *Plain Dealer* (February 25, 2010): [http://www.cleveland.com/open/index.ssf/2010/02/feds\\_defend\\_ohios\\_exclusion\\_fr.html](http://www.cleveland.com/open/index.ssf/2010/02/feds_defend_ohios_exclusion_fr.html).

*Regulation of loan servicers*

When Ohio codified Senate Bill 185 several years ago, legislators regulated the front end of the mortgage lending process and helped prevent predatory mortgage lending. Yet, there are few rules for lenders and servicers as the mortgage process continues after origination. Many servicers of loans are not federally regulated and few banks service their own loans at the local level. There continue to be too few incentives for servicers to modify mortgages when they generate fees from late payments, appraisals, and other actions. There is also no mandatory regulation on loss mitigation, ensuring that servicers are working with the borrower. **We should, at a minimum, require servicers to provide updated information to borrowers about their loan and how to prevent foreclosure, and charge an increased fee to file a foreclosure.** The disconnect between the servicer, mortgagee, and homeowner is a substantial impediment to resolving a foreclosure. The increased fees could go toward housing counseling (see below), addressing vacant and abandoned properties, and dealing with other negative effects of foreclosures.

*Counseling and mediation programs for troubled borrowers*

One of the most successful efforts in curtailing foreclosures has been having HUD-certified housing counselors assist borrowers in mortgage workouts, short-sales, or other housing options. Housing counselors offer help to bridge the disconnects and divisions in the mortgage modification and foreclosure process. Counselors effectively serve as guides, walking a homeowner through the foreclosure process. Funding for these efforts has already been decreased and faces more uncertainty. The HUD counseling group Empowering and Strengthening Ohio's People (ESOP), one of the state's largest and most successful programs for helping homeowners, estimates a cost of \$200 to \$300 per homeowner.<sup>11</sup> **Given the success rate of counseling and the complications of the foreclosure process to borrowers, we recommend that funding for counseling be increased.**<sup>12</sup>

The results of mediation are mixed. Many courts in Ohio already refer foreclosure cases to mediation services. A September 2009 research report by the National Consumer Law Center (NCLC) did not find encouraging results from the mediation programs in Cuyahoga and Franklin County. For instance, of the nearly 2,500 cases referred to mediation in Cuyahoga County, less than 250 were settled with a loan workout. The report's data on Franklin County is too sparse to analyze success or failure because it represents such a small fraction of the total foreclosure cases.<sup>13</sup> A 2009 report by the National Foreclosure Mitigation Counseling (NFMC) program released results of a 300,000-household study, finding that homeowners with a counselor were 60 percent more likely to avoid foreclosure compared to those without a counselor.<sup>14</sup> The same study found that counseled borrowers received favorable modifications, reducing their payments by at least \$450 per month. As the NCLC report stresses, mediation can be a helpful tool but the devil is in the details. How is the program to be administered? Will the homeowner file or will the process be automatic? What documents and costs does the homeowner see and when? Will

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<sup>11</sup> See testimony of Mark Seifert to the Senate Finance and Financial Institutions Committee on SB 197 (February 9, 2010).

<sup>12</sup> Kathy Hexter and Molly Schnoke "Responding to foreclosures in Cuyahoga County," *Maxine Goodman Levin College of Urban Affairs* (September 20, 2009). The report found that four counseling agencies had success rates for homeowners of 50 to 80 percent, depending on the agency and desired outcomes.

<sup>13</sup> *National Consumer Law Center* "State and local mediation programs: Can they save homes?" (September 2009): [http://www.consumerlaw.org/issues/foreclosure\\_mediation/content/ReportS-Sept09.pdf](http://www.consumerlaw.org/issues/foreclosure_mediation/content/ReportS-Sept09.pdf).

<sup>14</sup> Neil Mayer et al. "National Foreclosure Mitigation Counseling Program Evaluation" *Urban Institute* (November 2, 2009): <http://www.urban.org/publications/411982.html>.

the person representing the servicer have the authority to make changes to the mortgage? **Mediation can be an effective tool for curbing foreclosure but it must be coupled with adequate counselors.**<sup>15</sup> **Given the very strong record that counseling has brought about, we recommend an expansion of federal and state resources for counseling, with program design consistent with that recommended in the NCLC study.**

#### *Non-owner occupied foreclosures*

Policy Matters reported earlier on the problem of renters being evicted or not notified about their rental housing going through foreclosure.<sup>16</sup> The Policy Matters study found that rental properties accounted for nearly 30 percent of residential foreclosure filings in Cuyahoga County in 2007, and that foreclosures on rental properties increased 29 percent in the county from 2006. The study found costs of more than \$2,500 for displaced tenants, two-thirds of whom were forced to leave their homes and live with family members and friends despite being current on rent and in good tenancy. The federal Protecting Tenants in Foreclosure Act of 2009 attempted to address the concerns of eviction and notification for tenants but it lacks the strong notification component, enforcement, and longevity of a state law (it currently sunsets in 2012).<sup>17</sup> Specifically, in 2009, the Fannie Mae program after ten months of existence, helped only 300 tenants stay in their homes through a rental foreclosure new lease program, according to their program director.<sup>18</sup> Tenants deserve adequate notice and protections when a foreclosure occurs on their rental unit. **We recommend that Ohio enact a tenant protection law with better provisions for notification and enforcement.**

#### *Bank walkaways*

An increasing number of foreclosure filings are initiated by the loan servicer but never result in a transfer of property after a court judgment and sheriff's sale. The term "bank walkaway" is commonly used to describe situations where the plaintiff gets a judgment from the court but fails to execute on the judgment, leaving the property unmarketable and with no owner. The former homeowner is often under the assumption that the home title is transferred to the lender or sold at auction, only to find later that they are still listed as the legal owner of record. This situation, often called a "toxic title" or "zombie loan", frustrates local communities because the properties sit vacant and abandoned, largely unable to be sold or rehabilitated.<sup>19</sup> **Ohio should enact a provision that requires a timetable after foreclosure judgment to either take the property to sheriff sale, work out a new deal with the borrower, or remove the judgment lien from the record of title.** In the fall of 2009, U.S. Senator Sherrod Brown commissioned the Government Accountability

<sup>15</sup> See testimony of Margaret E. Monroe Miller, JD to the Senate Finance and Financial Institutions Committee on SB 197 (February 9, 2010).

<sup>16</sup> David Rothstein. "Collateral Damage: Renters in the Foreclosure Crisis." *Policy Matters Ohio* (June, 2008). <http://www.policymattersohio.org/CollateralDamage2008.htm>.

<sup>17</sup> Ann Fisher "Don't keep renters in the dark on foreclosures," *Columbus Dispatch* (February 9, 2009); *Akron Beacon Journal* "Three days, and you're out," (February 17, 2009): <http://www.ohio.com/editorial/opinions/39699322.html>.

<sup>18</sup> Mary Kane "Renters lost in shuffle in anti-foreclosure effort," *Washington Independent* (November 20, 2009): <http://washingtonindependent.com/68464/renters-lost-in-the-shuffle-in-anti-foreclosure-efforts>.

<sup>19</sup> There have been a great deal of recent media articles on the subject of bank walk away situations. See, for instance, Susan Saulny "Banks starting to walk away on foreclosures" *New York Times* (March 30, 2009); Sandra Livingston "Bank 'walkaways' from foreclosed homes are a growing, troubling trend," *Cleveland Plain Dealer* (July 19, 2009): [http://blog.cleveland.com/metro/2009/07/bank\\_walkaways\\_from\\_foreclosed.html](http://blog.cleveland.com/metro/2009/07/bank_walkaways_from_foreclosed.html); Ken McCall "Drop in foreclosure called 'very scary,'" *Dayton Daily News* (October 17, 2009): <http://www.daytondailynews.com/news/dayton-news/drop-in-foreclosures-called-very-scary-352689.html>.

Office to study the scope and depth of the bank walkaway problem.<sup>20</sup> The use of landbanking should also help to alleviate the blight of vacant and abandoned properties but bank walkaways create additional difficulties in that process.

#### *Foreclosure Rescue Scams*

Sincere efforts to help homeowners by counselors, mediators, and lenders are being abused by groups who prey on troubled borrowers with false claims of securing new mortgages, reducing payments, or eliminating financial debt. Most fraudulent companies charge an up-front or monthly fee for their services with little return or contact after payment. The fees can range from \$500 to \$3,000, and in some cases the borrower can sign over the title to their home. The other harmful practice is that the companies often tell borrowers not to work with their servicer, lender, or any other counseling agencies during the process.<sup>21</sup> The Ohio Attorney General and federal agencies are pursuing some of these individuals and groups but there is currently no state law that carries the proper provisions and enforcement mechanisms to deal with this predatory lending practice.<sup>22</sup> **Given the number of troubled homeowners, Ohio should pass a strong state law forbidding this practice and banning up-front fees.**

As foreclosures continue to devastate communities and homeowners, **the Ohio legislature should pass reforms to encourage real loan modifications, protect tenants, and reduce the foreclosure filing rate.** There is no panacea for this crisis but the current state and federal structures for mitigating foreclosure are wrought with loopholes, exemptions, and dead ends that make it nearly impossible to fend off foreclosure. Even with increased federal and state attention to the issue, foreclosures continue to increase and are not tied solely to subprime or alternative home loans. As a whole, the MBA numbers show that almost one in six Ohio homeowners with mortgages was delinquent or already in foreclosure. Since 1995, the average Ohio county saw more than a 400 percent increase in foreclosure filings, with most of the urban counties at higher percentages. Rural and suburban counties continue to see large year-to-year growth since 2006. No area remains unaffected by housing foreclosures. Ohio cannot afford to wait for federal plans to funnel downward. More state action is urgently needed.

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<sup>20</sup> Sandra Livingston “GAO to study bank walkaways at U.S. Sen. Brown’s request “*Cleveland Plain Dealer* (October 20, 2009): [http://blog.cleveland.com/metro/2009/10/gao\\_to\\_study\\_bank\\_walkaways\\_at.html](http://blog.cleveland.com/metro/2009/10/gao_to_study_bank_walkaways_at.html).

<sup>21</sup> *National Consumer Law Center* “Desperate homeowners: Loan mod scammers step in when loan servicers refuse to provide relief,” July 2009.

<sup>22</sup> Sheryl Harris “Ohio Attorney General shuts down foreclosure rescue scam, “*Cleveland Plain Dealer* (May 4, 2009): [http://www.cleveland.com/consumeraffairs/index.ssf/2009/05/ohio\\_attorney\\_general\\_shuts\\_do\\_2.html](http://www.cleveland.com/consumeraffairs/index.ssf/2009/05/ohio_attorney_general_shuts_do_2.html).

**A note on the data**

There is no perfect measure of foreclosures; the filing data in this report capture the process at one stage, but do not exactly measure the number of families that lose their homes to foreclosure. This report uses data from the Ohio Supreme Court and information compiled by Policy Matters Ohio from the two federal district courts in Ohio. The Supreme Court data are filed by county common pleas courts. They are consistent from year to year, allowing a comparison over time and between Ohio's counties. As described below, while previous years' data include federal filings, there are none included in 2009. Our previous report included nine federal cases, which are not included in the 2008 numbers for this report.

The Ohio Supreme Court's reporting of foreclosure filings includes an unspecified number of non-mortgage foreclosure cases, including delinquent tax foreclosures and others. It also includes double filings that occur if bankruptcy interrupts the process, or if a lender uses the threat of foreclosure as a collection mechanism several times against one borrower. Nonmortgage filings and double filings have not been eliminated from the data. All foreclosure data in this report are for filings. Not all filings lead to actual foreclosures, in which borrowers lose title to their property. On the other hand, filing statistics do not cover all cases in which homeowners lose their property, such as cases in which they give the title back to the lender and walk away from the home.

Policy Matters began compiling federal filings made as of 2004; such cases were not filed in large numbers previously. After growing significantly, in late 2007, the flow of such cases slowed to a trickle, and the number has not picked up again since. Fewer than 100 were filed in 2008 and less in 2009, and most of those were removed from state courts or cases that had been filed previously and were being reopened (such cases were excluded in our tabulations of federal filings from earlier years). The small remainder included commercial disputes such as alleged non-payment to contractors, filings by the U.S. government for payment in cases of deceased homeowners and a handful of cases by borrowers claiming mistreatment, but virtually no standard filings involving residential properties. Thus, we do not have any 2008 and 2009 federal filings in this report. As noted in our 2008 report, there is some duplication between state and federal court cases.

**Table 5**  
**New Foreclosure Filings by Ohio County, 1995 and 2006-2009**

<b>County</b>	<b>1995 Filings</b>	<b>2006 Filings</b>	<b>2007 Filings</b>	<b>2008 Filings</b>	<b>2009 Filings</b>	<b>Change 2008-2009</b>	<b>Rank in Growth 2008-2009</b>	<b>Change 1995-2009</b>	<b>Rank in Growth, 1995-2009</b>
<b>Adams</b>	25	107	116	155	163	5.2%	48	552.0%	43
<b>Allen</b>	164	647	715	996	690	-30.7%	84	320.7%	74
<b>Ashland</b>	30	235	266	282	348	23.4%	15	1060.0%	12
<b>Ashtabula</b>	111	723	760	782	802	2.6%	57	622.5%	31
<b>Athens</b>	21	157	206	169	192	13.6%	25	814.3%	21
<b>Auglaize</b>	34	201	217	227	262	15.4%	23	670.6%	26
<b>Belmont</b>	40	200	202	220	228	3.6%	55	470.0%	59
<b>Brown</b>	62	308	336	371	385	3.8%	53	521.0%	55
<b>Butler</b>	447	2,580	2,783	2,987	3,162	5.9%	43	607.4%	35
<b>Carroll</b>	35	130	157	122	168	37.7%	4	380.0%	67
<b>Champaign</b>	45	246	288	256	318	24.2%	14	606.7%	35
<b>Clark</b>	144	1,113	1,060	1,124	1,104	-1.8%	65	666.7%	27
<b>Clermont</b>	182	988	1,130	1,285	1,342	4.4%	51	637.4%	29
<b>Clinton</b>	36	234	297	291	397	36.4%	6	1002.8%	14
<b>Columbiana</b>	258	558	654	636	702	10.4%	30	172.1%	82
<b>Coshocton</b>	19	180	192	180	187	3.9%	52	884.2%	17
<b>Crawford</b>	31	277	281	337	312	-7.4%	74	906.5%	16
<b>Cuyahoga</b>	3,345	13,943	14,946	13,858	14,171	2.3%	58	323.6%	73
<b>Darke</b>	45	259	273	310	311	0.3%	61	591.1%	38
<b>Defiance</b>	22	170	172	183	198	8.2%	38	800.0%	22
<b>Delaware</b>	130	720	897	909	1,003	10.3%	31	671.5%	25

<b>County</b>	<b>1995 Filings</b>	<b>2006 Filings</b>	<b>2007 Filings</b>	<b>2008 Filings</b>	<b>2009 Filings</b>	<b>Change 2008-2009</b>	<b>Rank in Growth 2008-2009</b>	<b>Change 1995-2009</b>	<b>Rank in Growth, 1995-2009</b>
<b>Erie</b>	75	441	529	562	539	-4.1%	69	618.7%	32
<b>Fairfield</b>	110	765	910	964	1,019	5.7%	44	826.4%	19
<b>Fayette</b>	16	195	195	216	235	8.8%	35	1368.8%	4
<b>Franklin</b>	1,459	8,876	9,145	9,305	9,499	2.1%	59	551.1%	44
<b>Fulton</b>	17	176	192	216	273	26.4%	10	1505.9%	2
<b>Gallia</b>	42	82	94	95	82	-13.7%	80	95.2%	84
<b>Geauga</b>	81	313	380	435	508	16.8%	20	527.2%	51
<b>Greene</b>	242	671	669	773	851	10.1%	32	251.7%	77
<b>Guernsey</b>	50	167	225	210	221	5.2%	47	342.0%	72
<b>Hamilton</b>	1,490	5,879	6,416	6,673	6,714	0.6%	60	350.6%	69
<b>Hancock</b>	84	375	395	436	534	22.5%	16	535.7%	47
<b>Hardin</b>	39	218	202	210	185	-11.9%	77	374.4%	68
<b>Harrison</b>	11	60	72	81	70	-13.6%	79	536.4%	47
<b>Henry</b>	7	109	120	146	183	25.3%	12	2514.3%	1
<b>Highland</b>	31	317	334	351	381	8.5%	36	1129.0%	10
<b>Hocking</b>	37	142	138	178	166	-6.7%	72	348.6%	70
<b>Holmes</b>	15	81	125	109	103	-5.5%	71	586.7%	40
<b>Huron</b>	30	334	431	396	423	6.8%	41	1310.0%	6
<b>Jackson</b>	63	184	205	198	220	11.1%	29	249.2%	78
<b>Jefferson</b>	57	281	255	297	308	3.7%	54	440.4%	63
<b>Knox</b>	195	298	350	405	453	11.9%	27	132.3%	83
<b>Lake</b>	301	1,141	1,395	1,517	1,695	11.7%	28	463.1%	61
<b>Lawrence</b>	42	206	241	260	260	0.0%	62	519.0%	56

County	1995 Filings	2006 Filings	2007 Filings	2008 Filings	2009 Filings	Change 2008-2009	Rank in Growth 2008-2009	Change 1995-2009	Rank in Growth, 1995-2009
Licking	89	1,081	1,185	1,204	1,178	-2.2%	66	1223.6%	8
Logan	69	313	292	323	340	5.3%	46	392.8%	66
Lorain	413	2,252	2,401	2,442	2,696	10.4%	30	552.8%	42
Lucas	1,165	3,618	3,796	4,359	4,491	3.0%	56	285.5%	76
Madison	96	213	252	198	273	37.9%	3	184.4%	80
Mahoning	321	1,949	1,880	1,836	1,755	-4.4%	70	446.7%	62
Marion	92	495	505	531	584	10.0%	33	534.8%	48
Medina	140	729	859	961	1,155	20.2%	18	725.0%	23
Meigs	13	83	56	75	74	-1.3%	64	469.2%	60
Mercer	21	132	147	142	154	8.5%	36	633.3%	30
Miami	81	521	578	590	741	25.6%	11	814.8%	20
Monroe	12	45	37	38	33	-13.2%	78	175.0%	81
Montgomery	949	5,076	5,119	5,194	4,703	-9.5%	75	395.6%	65
Morgan	8	43	45	37	85	129.7%	1	962.5%	15
Morrow	54	230	225	261	242	-7.3%	73	348.1%	71
Muskingum	78	501	557	563	450	-20.1%	83	476.9%	58
Noble	5	25	29	38	32	-15.8%	81	540.0%	46
Ottawa	42	185	211	273	262	-4.0%	68	523.8%	53
Paulding	24	121	126	126	151	19.8%	19	529.2%	50
Perry	26	221	243	217	234	7.8%	39	800.0%	22
Pickaway	29	308	307	318	339	6.6%	42	1069.0%	11
Pike	31	108	106	129	104	-19.4%	82	235.5%	79
Portage	143	725	775	874	935	7.0%	40	553.8%	41
Preble	96	307	348	374	370	-1.1%	63	285.4%	76

County	1995 Filings	2006 Filings	2007 Filings	2008 Filings	2009 Filings	Change 2008-2009	Rank in Growth 2008-2009	Change 1995-2009	Rank in Growth, 1995-2009
Putnam	16	86	81	104	100	-3.8%	67	525.0%	52
Richland	128	752	849	862	903	4.8%	49	605.5%	36
Ross	74	399	413	416	518	24.5%	13	600.0%	37
Sandusky	42	303	341	321	408	27.1%	9	871.4%	18
Scioto	63	327	330	304	324	6.6%	42	414.3%	64
Seneca	79	263	301	316	331	4.7%	50	319.0%	75
Shelby	44	252	254	250	303	21.2%	17	588.6%	39
Stark	380	2,802	2,864	3,017	2,700	-10.5%	76	610.5%	33
Summit	745	4,835	4,920	4,113	4,633	12.6%	26	521.9%	54
Trumbull	254	1,575	1,563	1,481	1,605	8.4%	37	531.9%	49
Tuscarawas	56	401	417	389	453	16.5%	21	708.9%	24
Union	26	266	304	320	338	5.6%	45	1200.0%	9
Van Wert	18	149	162	201	207	3.0%	56	1050.0%	13
Vinton	10	43	52	43	65	51.2%	2	550.0%	45
Warren	112	1,029	1,243	1,306	1,498	14.7%	24	1237.5%	7
Washington	33	230	285	173	201	16.2%	22	509.1%	57
Wayne	41	426	475	462	588	27.3%	8	1334.1%	5
Williams	17	185	191	199	273	37.2%	5	1505.9%	3
Wood	106	442	553	582	750	28.9%	7	607.5%	34
Wyandot	14	102	108	98	107	9.2%	34	664.3%	28
<b>Total</b>	<b>15,975</b>	<b>79,435</b>	<b>84,751</b>	<b>85,773</b>	<b>89,053</b>	<b>3.8%</b>		<b>457.5%</b>	

Source: Data on state court filings came from the Ohio Supreme Court. Policy Matters Ohio reviewed filings in U.S. District Courts in Ohio, which are included in 2006 and 2007. Federal filings exclude cases removed to federal court from state court, reopened cases, and those for which proceedings were not available. As cited in the data note (p.14), there were no federal cases counted for 1995, 2008 and 2009.

Counties	2008 Population	2009 Filings	2009 Filings/1,000 Pop.	Rate Rank
Adams	28,213	163	5.78	60
Allen	105,168	690	6.56	43
Ashland	55,125	348	6.31	49
Ashtabula	100,648	802	7.97	15
Athens	63,255	192	3.04	81
Auglaize	46,576	262	5.63	62
Belmont	67,975	228	3.35	78
Brown	43,960	385	8.76	10
Butler	360,765	3,162	8.76	9
Carroll	28,439	168	5.91	56
Champaign	39,650	318	8.02	14
Clark	139,859	1,104	7.89	17
Clermont	195,385	1,342	6.87	37
Clinton	43,200	397	9.19	3
Columbiana	107,873	702	6.51	45
Coshocton	35,981	187	5.20	67
Crawford	43,696	312	7.14	31
Cuyahoga	1,283,925	14,171	11.04	1
Darke	52,027	311	5.98	55
Defiance	38,637	198	5.12	69
Delaware	165,026	1,003	6.08	52
Erie	77,062	539	6.99	36
Fairfield	142,223	1,019	7.16	29
Fayette	28,319	235	8.30	13
Franklin	1,129,067	9,499	8.41	12
Fulton	42,485	273	6.43	46
Gallia	30,912	82	2.65	83
Geauga	94,753	508	5.36	64
Greene	159,190	851	5.35	65
Guernsey	40,177	221	5.50	63
Hamilton	851,494	6,714	7.88	18
Hancock	74,273	534	7.19	28
Hardin	31,948	185	5.79	59
Harrison	15,387	70	4.55	72
Henry	28,841	183	6.35	48
Highland	42,349	381	9.00	4
Hocking	28,975	166	5.73	61

<b>Counties</b>	<b>2008 Population</b>	<b>2009 Filings</b>	<b>2009 Filings/1,000 Pop.</b>	<b>Rate Rank</b>
<b>Holmes</b>	41,445	103	2.49	84
<b>Huron</b>	59,659	423	7.09	33
<b>Jackson</b>	33,270	220	6.61	42
<b>Jefferson</b>	68,526	308	4.49	73
<b>Knox</b>	59,324	453	7.64	19
<b>Lake</b>	234,030	1,695	7.24	25
<b>Lawrence</b>	62,573	260	4.16	75
<b>Licking</b>	157,721	1,178	7.47	21
<b>Logan</b>	46,220	340	7.36	23
<b>Lorain</b>	304,373	2,696	8.86	7
<b>Lucas</b>	440,456	4,491	10.20	2
<b>Madison</b>	41,861	273	6.52	44
<b>Mahoning</b>	237,978	1,755	7.37	22
<b>Marion</b>	65,768	584	8.88	6
<b>Medina</b>	171,210	1,155	6.75	39
<b>Meigs</b>	22,722	74	3.26	80
<b>Mercer</b>	40,818	154	3.77	76
<b>Miami</b>	101,085	741	7.33	24
<b>Monroe</b>	14,221	33	2.32	85
<b>Montgomery</b>	534,626	4,703	8.80	8
<b>Morgan</b>	14,510	85	5.86	58
<b>Morrow</b>	34,455	242	7.02	34
<b>Muskingum</b>	85,087	450	5.29	66
<b>Noble</b>	14,333	32	2.23	86
<b>Ottawa</b>	40,823	262	6.42	47
<b>Paulding</b>	19,096	151	7.91	16
<b>Perry</b>	35,241	234	6.64	41
<b>Pickaway</b>	54,544	339	6.22	50
<b>Pike</b>	27,967	104	3.72	77
<b>Portage</b>	155,991	935	5.99	53
<b>Preble</b>	41,643	370	8.89	5
<b>Putnam</b>	34,543	100	2.89	82
<b>Richland</b>	124,999	903	7.22	26
<b>Ross</b>	76,073	518	6.81	38
<b>Sandusky</b>	60,637	408	6.73	40
<b>Scioto</b>	76,587	324	4.23	74
<b>Seneca</b>	56,461	331	5.86	57
<b>Shelby</b>	48,919	303	6.19	51
<b>Stark</b>	379,214	2,700	7.12	32

<b>Counties</b>	<b>2008 Population</b>	<b>2009 Filings</b>	<b>2009 Filings/1,000 Pop.</b>	<b>Rate Rank</b>
<b>Summit</b>	542,562	4,633	8.54	11
<b>Trumbull</b>	211,317	1,605	7.60	20
<b>Tuscarawas</b>	91,348	453	4.96	70
<b>Union</b>	48,223	338	7.01	35
<b>Van Wert</b>	28,748	207	7.20	27
<b>Vinton</b>	13,281	65	4.89	71
<b>Warren</b>	207,353	1,498	7.22	26
<b>Washington</b>	61,567	201	3.26	79
<b>Wayne</b>	113,812	588	5.17	68
<b>Williams</b>	38,158	273	7.15	30
<b>Wood</b>	125,340	750	5.98	54
<b>Wyandot</b>	22,354	107	7.22	26
<b>Ohio</b>	<b>11,485,910</b>	<b>89,053</b>	<b>7.75</b>	

Source: Data on state court filings came from the Ohio Supreme Court. As cited in the data note (p.14), there were no federal cases counted for 2009. Population data is from the U.S. Census Bureau. The population data is based on 2008 population because 2009 population data was not yet available as of the date of this report.

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