



Mortgage Foreclosures: Effects and Responses

**UC Center Sacramento
February 6, 2009**

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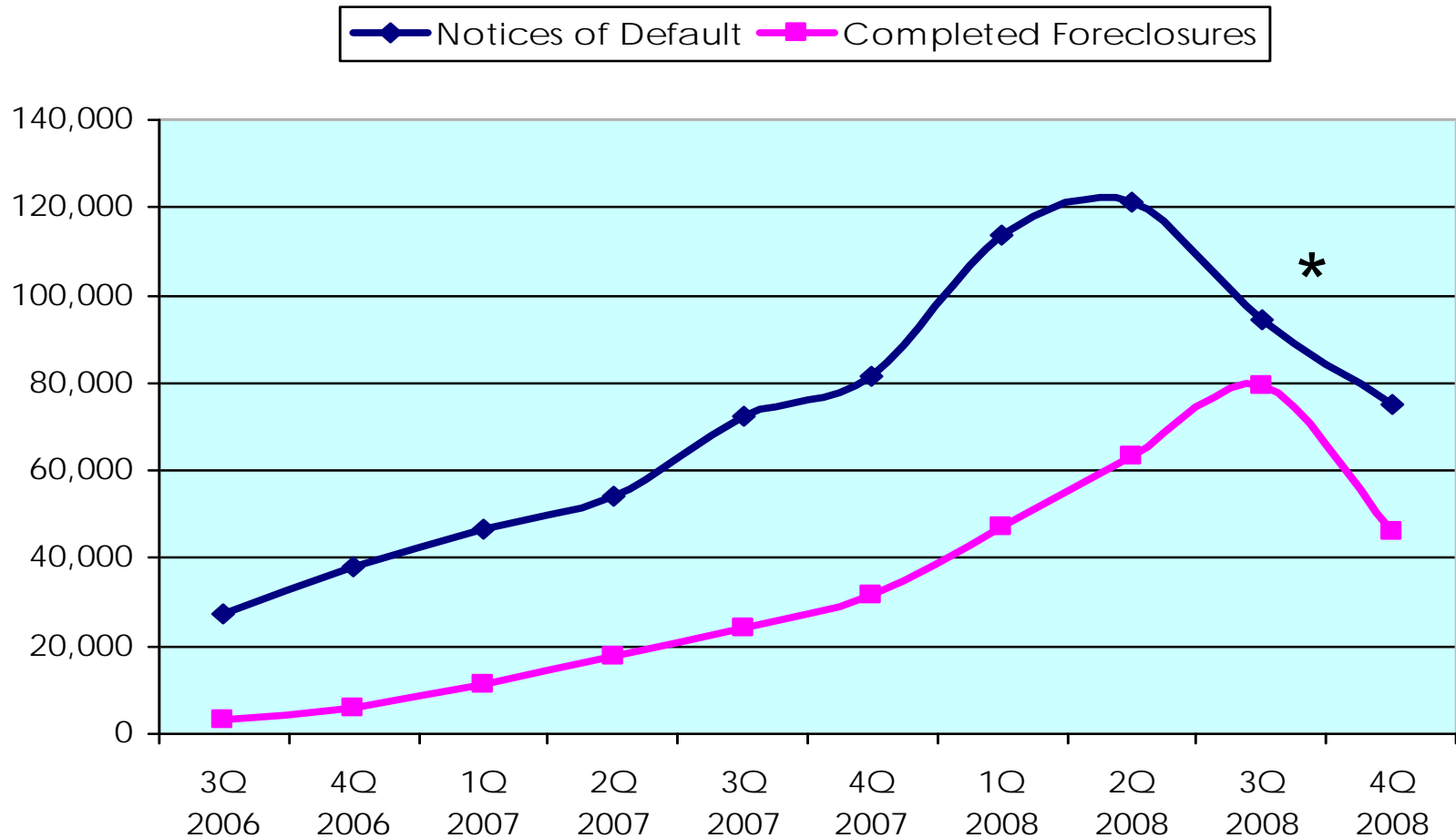
Promoting policies and practices that encourage
fair access to credit for low-wealth families

Durham, NC Washington, DC Oakland, CA



I. California Default and Foreclosure Data is Bleak

Completed Foreclosures and Notices of Default in California



* CA law requiring new 30-day notice takes effect.

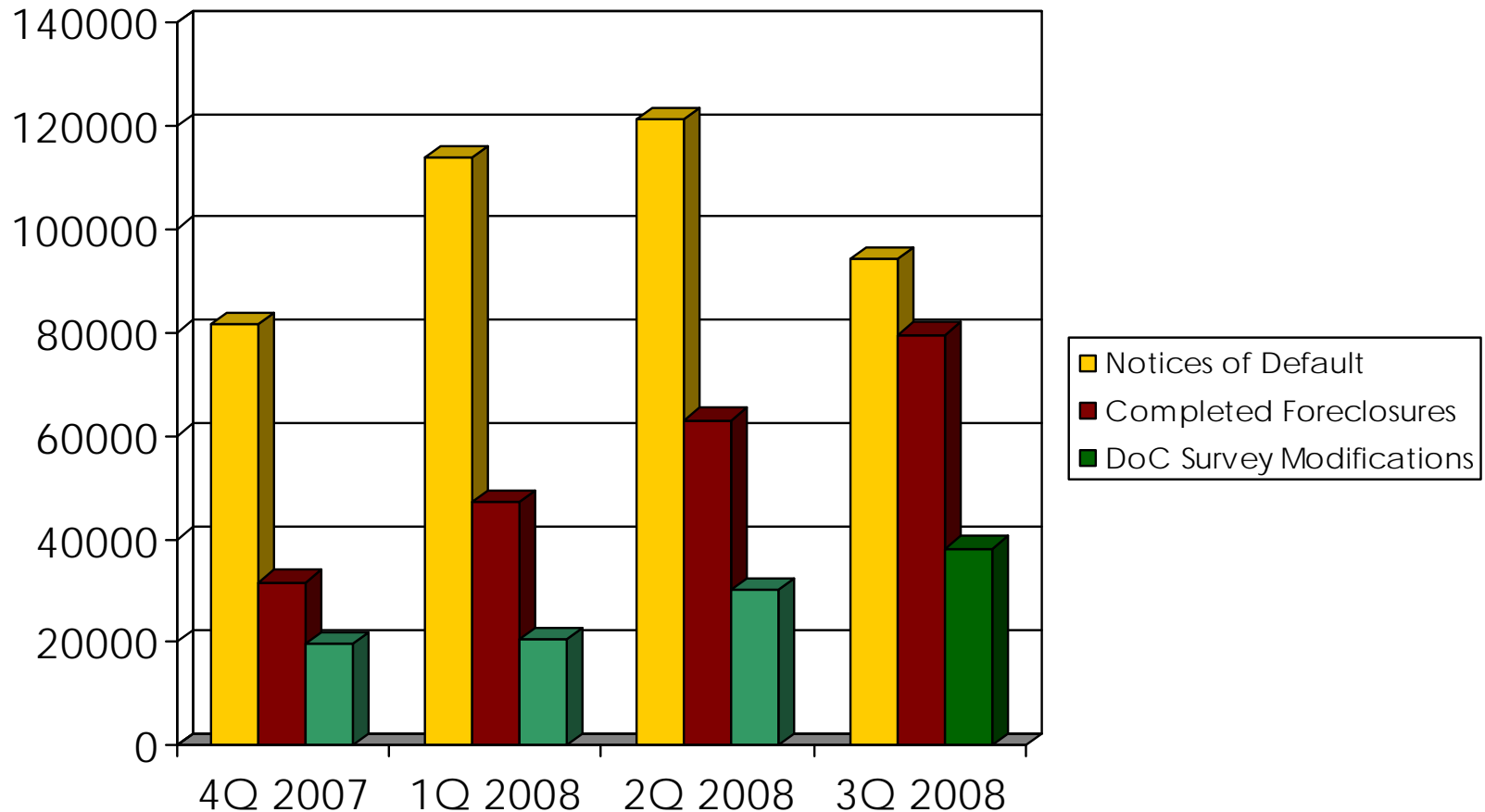
Source: DataQuick (www.dqnews.com).

Foreclosure Nightmare

- National Estimates from Goldman Sachs:
 - 13 million defaults from 2008Q4 until 2014
 - \$1.1 Trillion in Credit Losses
- CA CRL estimates, based on MBA/Credit Suisse data:
 - 236,000 foreclosures in 2008 (dataquick)
 - 462,100 foreclosures in 2009
 - 1.5 million through 2012
 - Approximately one out of 4 mortgages

II. Loan Modification Efforts to Date Come Up Short

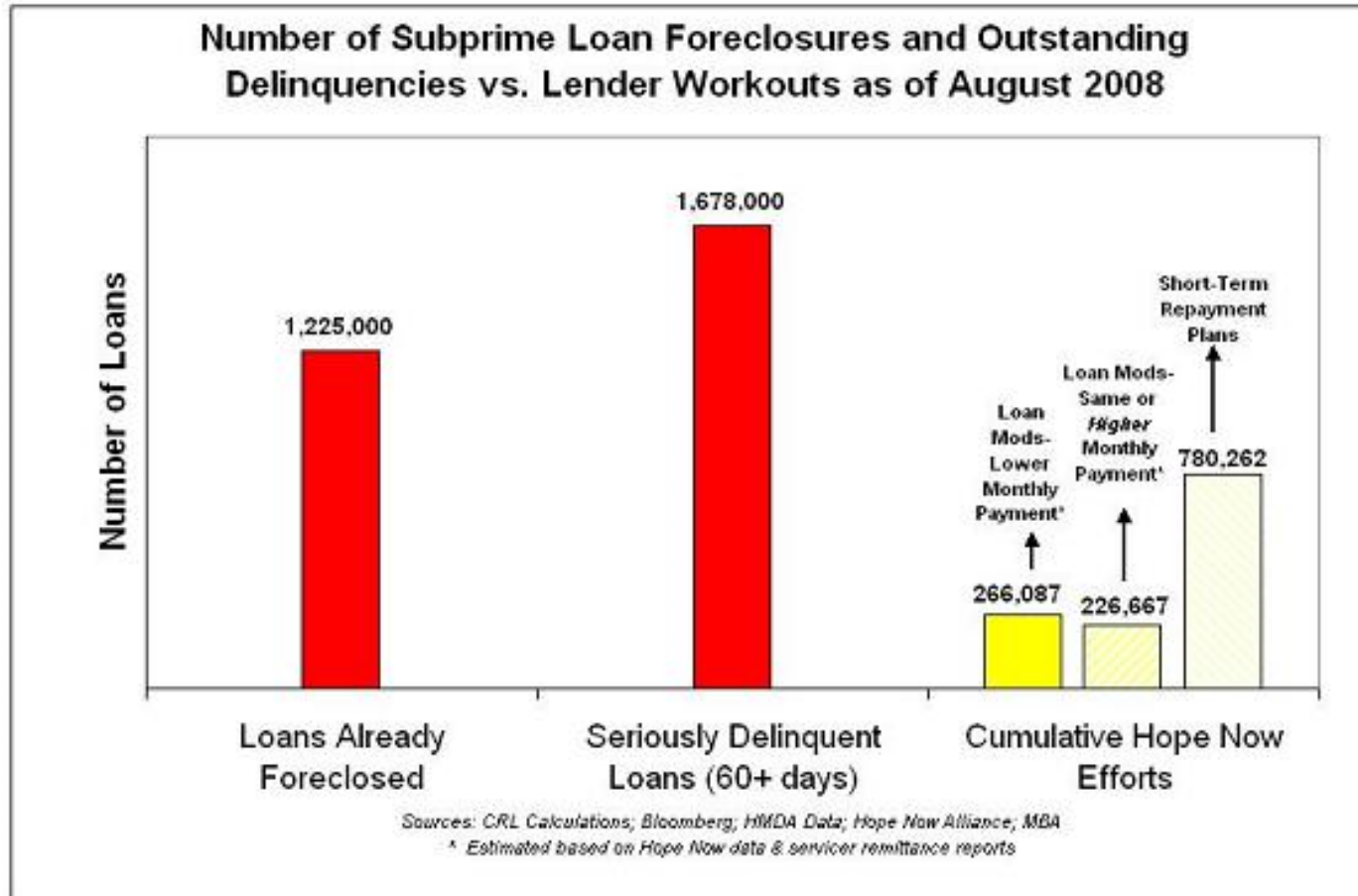
CA: Modifications Are Not Keeping Pace with Foreclosure Activity



Sources: DataQuick (www.dqnews.com); DoC reported data (www.corp.ca.gov).

* 4Q DoC Modification Data not available

Nationally, Loan Mods Dwarfed By Foreclosures & Delinquencies



What About Re-defaults?

- OCC/OTS Estimates Inflated . . .
 - 55% of loan modifications made by national banks and federal thrifts were 30+ delinquent at the six-month mark.
- BUT: **Bad** Modifications DO Re-Default
 - From June 07-July 08: Only 35% reduced payments at all
 - 45% increased payments
 - 20% left the payment the same
- Surprise!: Mods that give lower payments are less likely to default
- Highlights the need for affordability standards, and principal balance reductions.

Existing Obstacles to Voluntary Modifications

- Insufficient Servicer Staffing
- Misaligned Financial Incentives for Servicers
- Risk of Investor Lawsuits
- Limits of Pooling and Servicing Agreements
- Piggyback Seconds

Getting to Scale: More Formulaic Modifications

- Need to get beyond case-by-case
 - Enhanced Technology
 - Pre-Approved Offers
- Lenders moving toward streamlined modifications
 - IndyMac/FDIC leads other servicers to adoption

TARP: Incomplete Rescue Plan

- **Can't Fix The Financial Crisis Without Stopping Runaway Foreclosures**
 - Reckless lending & foreclosure boom are at the heart of the crisis
 - Equity injections haven't addressed housing
- **Strategies For Homeowners**
 - Increase affordable loan modifications through TARP authority
 - Other statutory changes to induce loan modifications
 - Lift the ban on court-supervised loan modifications in bankruptcy

Treasury Can Increase Loan Modifications with TARP

- **Conditions:** Require mandatory formulaic mods for loans owned by any bank that gets cash infusion
- **Incentivize Modifications:** Use TARP \$\$ to incentivize modifications conditioned on affordability
- **Use Asset Purchases Strategically**
 - Buy loan servicing rights to break logjam
 - Purchase 2nd mortgages
- **Transparent Reporting/Hold Entities Accountable:** Set goals & collect detailed data

Additional Legislative Changes Could Increase Modifications

- **Change REMIC rules:** Allow Treasury to purchase whole loans out of trusts at discount and remove PSA limits to modifications.
- **Incentivize Servicers:** Provide cash payments for sustainable mods
- **Indemnify Servicers:** Defang investor lawsuits for affordable modifications
- **Protect homeowners from tax burdens of modifications**

Lift the Ban on Court-Supervised Modifications

- Bankruptcy judges can modify all loans (incl. for yachts, vacation homes, and for subprime lenders in bankruptcy) but not for primary residences
- Zero cost to taxpayers
- Conservatively, could help 800,000 families keep their homes, 140K in CA.
- Narrowly targeted; limited judicial discretion
- Incentive to servicers to modify outside bankruptcy
- Supported by LA Times, NY Times, Washington Post, USA Today, Financial Times (London)
- Banks are coming around.

What Can the State Do?

- Prevent Foreclosures
 - Use foreclosure process as “stick” for servicers to adopt streamlined affordable modifications
 - Require servicers to establish proof of ownership before initiating default.
- Better Protections for Lending
 - Brokers
 - Loan features and practices
 - Language translation
- Enhance enforcement
 - Strengthen regulator enforcement practices
 - Enforcement through local law enforcement
 - Enforcement through private action, including against mortgage holder

For More Information

- Testimony before U.S. House Financial Services Committee, January 13, 2009
<http://www.responsiblelending.org/pdfs/calho-un-testimony-1-13-09-final.pdf>
- CA Testimony Before CA Assembly Banking Committee:
<http://www.responsiblelending.org/pdfs/asm-banking-hrg-better-or-worse-8-4-08.pdf>

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