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Policy Research Shop

Assessment of the Impact of the Mortgage Crisis on New Hampshire Mortgage Holders

An Overview of the National Mortgage Settlement and its Impact

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EXECUTIVE SUMMARY

This project analyzed the impact of the national mortgage crisis on New Hampshire, specifically looking at foreclosures. We did an in-depth comparison of three states—New Hampshire, Vermont, and Maine—and found that New Hampshire was impacted most negatively. Though we cannot draw a definitive link between these negative impacts and fraudulent banking practices, it is clear that sub-prime lending and mortgage loan securitization played a large role in New Hampshire’s late 2000s housing problems.

In addition to macroeconomic stresses such as the housing bubble and interest rate hikes, fraudulent banking practices exacerbated the mortgage crisis. Robo-signing and dual tracking were the most illegal activities, followed by subtler, irresponsible acts such as losing paperwork or giving only partial disclosure of loan terms. The national settlement provides short-term fixes in the form of monetary relief, as well as servicing standards reforms that will pan out over the next few years. The settlement ensures its own efficacy in two ways: incentives and accountability. First, banks will be motivated to provide substantial amounts of direct relief because it is credited towards their criminal fees. Second, the National Monitor requires quarterly progress reports from the banks and can pursue legal recourse if he feels the settlement is not being honored.

This project also attempted to place New Hampshire into a national comparative state analysis of the impact of the mortgage crisis and the policy response stemming from the settlement. Analysis of both consumer relief allocation and the efficacy of state supported programs nationally demands more time for services to be fully implemented. So far New Hampshire has been successful in both endeavors. Further, New Hampshire is one of a small group of states to use the entirety of its direct state allocation for housing and foreclosure-related issues. A more accurate determination can be made by the middle of next year after consumer relief has been fully distributed and New Hampshire’s state programs, as well as those of other states, have taken effect.

1. INTRODUCTION

Home ownership is part of the ‘American Dream,’ incentivized by nearly all of America’s socio-political institutions; however, this dream of universal home ownership has had a few dark years since the 2007 housing crisis. As a result of these years, the average US home price fell by 31.8 percent from its peak in 2006 and employment rose by five percentage points from pre-recession levels.[1] The crisis originated in the early 2000s from too much borrowing and flawed financial modeling that was primarily based around one idea: that home prices can only go up over time.

In the early 2000s, mortgage interest rates were historically low,[2] allowing borrowers to borrow more money and pay a lower monthly rate in interest payments. In a robust economy with strong growth prospects and plenty of global liquidity, people, businesses, and governments had extra money to invest and a particularly large appetite for mortgage-linked investments. With home prices that rose by over 80 percent in many areas of the US from 2000 to 2006,[3] borrowing money to make an investment on a home seemed like a great idea for borrowers and lenders alike. This increased demand for mortgage-related investments led to mass financial engineering to facilitate these transactions. The United States experienced an expansion of new strategies of mortgage lending that expanded access to credit for entirely new markets, particularly the subprime market. Eventually, these expansions outgrew the housing sector, and caused economic repercussions felt across the world. Within the scope of this paper, we will focus on the national impact and specifically on the impact in New Hampshire and its comparative states.

2. CAUSES AND EFFECTS OF THE MORTGAGE CRISIS

2.1 Morally Hazardous Lending

The mortgage crisis grew to unsustainable rates by making a few simple mistakes: 1) Mortgage lenders, often "big banks"[4] could borrow incredibly cheaply in order to make loans for mortgages; 2) These big banks would evaluate credit-worthiness for borrowers based upon the premise that the home price would rise over the duration of the mortgage, allowing borrowers with poor credit-worthiness to buy over-priced homes with no money down, using only the home as collateral; and 3) The big banks would then package similar mortgage loan bundles together, "securitize them," and sell the payment stream on the mortgage to investors, getting the original underlying mortgage loan off the original mortgage lender's books.

Once the mortgage was off the books, the mortgage lender had no vested interest in whether or not the mortgage borrower actually paid back their debt, creating an incentive for these big banks to service more and more loans to markets that otherwise would not have enough access to credit to buy a house. In the words of author Upton Sinclair, "It is difficult to get a man to understand something when his job depends upon his not understanding it."[5] As a result, financially-innovative mortgage originators were able to effectively engineer a housing bubble.

2.2 Expansion of Potentially-Fraudulent Practices

This section will focus on the many questionable lending practices that occurred during the expansion of the mortgage lending industry.

The expansion of mortgage lending into new, high-risk markets was enabled by a lack of across-the-board regulation on how to service mortgages. Without overarching oversight and standards, mortgage lenders streamlined mortgage application processes and analyzed far less information on the creditworthiness of borrowers. According to the National Association of Mortgage Brokers, rather than following the typical model of the mortgage lender (directly evaluating the borrower's credit scores and income requirements and mandating that there be somewhere between five and 20 percent of the value of the home as a down payment) big bank mortgage lenders opted for unconventional mortgage lending strategies where essentially no information was necessary for borrowers up-front. As a result, there was a rise in the prominence of subprime mortgage lending and adjustable rate mortgages, strategies that expanded credit access to higher-risk borrowers. In 2001, for the first time in history, more adjustable-rate mortgages (ARMs) were serviced than fixed-rate mortgages (FRMs) in the subprime market, signaling an even deeper dependence on low-interest rate economic conditions.[6]

2.3 Unraveling of the Housing Markets: The Crisis

As long as the low-interest rate, easy-money macroeconomic climate of always-rising home prices continued, this was not necessarily a problem because those who owned homes were earning profits on their investments. However, in late 2006, this climate changed, and the housing bubble popped.[7] Once investors realized how many of the $3.2 trillion in subprime, securitized loans made from 2002 to 2007 to homeowners with bad credit and largely undocumented incomes were more or less worthless, the market began to unwind, and the housing sector began to crash.

Home prices stopped rising at their break-neck pace, borrowers who were over-levered stopped making payments on time, and interest payments on recently-popular adjustable rate mortgages rose, pushing indebted homeowners into a particularly difficult situation. According to a May 25, 2011 report by the International Monetary Fund, financial losses stemming from the US mortgage crisis could reach over $1 trillion.[8]

2.4 Comparative Analysis of Impacts: New Hampshire, Vermont, and Maine

The unraveling of the housing market bubble had varying impacts in different regional housing markets. This section will place the damages done to the New Hampshire into a comparative analysis of three states with similar housing markets: New Hampshire, Vermont, and Maine.

2.4.1 New Hampshire

The default and foreclosure problems associated with the correction of the housing bubble were different in New Hampshire than what happened nationally. First, the state dealt with foreclosure problems that predated the full brunt of the effects of the crisis which were, in the opinion of the New Hampshire Housing Finance Authority and the New Hampshire Attorney General Office, directly related to the increased levels of sub-prime activity and securitization. Second, the state had consistently high, stable levels of mortgages after the crisis in our 2008-present period.

Primary Increase in Foreclosures

As seen in the first table below, in 2005 New Hampshire had only 462 total foreclosure deeds. One year later, that number had increased by 129 percent to 1,057 total foreclosures, and by 2007 that number increased again by 96 percent to 2,071 total foreclosures. As seen in the graph below, not only the highest percentages, but also an increasing trend of foreclosure initiations came from sub-prime adjustable loans. From the fourth quarter of 2005 to the fourth quarter of

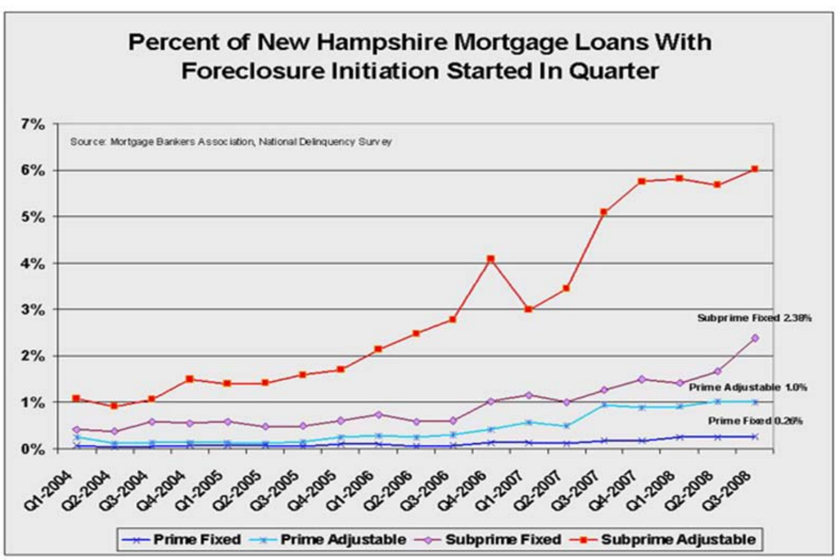
2006, there was a 128 percent increase in the percentage of subprime loans made in New Hampshire that ended in foreclosure, showing that the subprime market really drove the foreclosure increases within the state. There has not been much academic literature on why New Hampshire was disproportionately impacted by early sub-prime problems, but the New Hampshire Housing Finance Authority seems to think it is related to the high number of renter-owned, multi-family housing situations.[9] From the first quarter in 2007 to the first quarter in 2008, there was a 95 percent increase in the percent of subprime adjustable loans that ended with foreclosure initiation, jumping from 2.98 percent to 5.80 percent. Furthermore, in both of these quarters, subprime loans ended in foreclosures more than ten times as frequently as prime loans.[10]

Table 1. Foreclosure Deeds in New Hampshire by Month 2005-2010

	2005	2006		2007		2008		2009		2010	
Month	Number	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.
January	20	79	295%	157	99%	251	60%	264	5%	352	33%
February	35	43	23%	131	205%	221	69%	214	-3%	326	52%
March	35	69	97%	140	103%	283	102%	332	17%	449	35%
April	30	61	103%	131	115%	329	151%	303	-8%	361	19%
May	40	71	78%	139	96%	291	109%	297	2%	323	9%
June	48	72	50%	176	144%	334	90%	260	-22%	377	45%
July	39	78	100%	153	96%	305	99%	298	-2%	346	16%
August	47	108	130%	208	93%	332	60%	288	-13%	408	42%
September	40	77	93%	146	90%	259	77%	287	11%	326	14%
October	41	128	212%	211	65%	333	58%	359	8%	255	-29%
November	33	121	267%	247	104%	295	19%	250	-15%	227	-9%
December	54	150	178%	232	55%	330	42%	315	-5%	203	-36%
Total	462	1,057	129%	2,071	96%	3,563	72%	3,467	-3%	3,953	14%
Average	39	88	129%	173	96%	297	72%	289	-3%	329	14%

Source: Real Data Corp, Compiled by New Hampshire Housing

Figure 1. Percent of New Hampshire Mortgage Loans with Foreclosure Initiation



The 2011 LHPI report found that home prices in Manchester, New Hampshire fell by 19.7 percent from the first quarter in 2006 to the third quarter in 2010 while home prices in Rockingham County fell by 18 percent.[11] In totality, the average value of a New Hampshire home fell by 16.2 percent from 2006 to 2010, according to the S&P Case-Shiller Index.

Secondary Increase in Foreclosures

Since the crisis, from January 1, 2008 until the present, the state has still been dealing with the second part of foreclosure issues: bad macroeconomic circumstances including unemployment, general loss of income, low volume of housing sales, and high volume of foreclosure inventories. In other words, many of the same foreclosure problems from 2006 and 2007 exist in the state today, but they are byproducts of larger trends that have not reversed back yet to their pre-recession levels. As seen below in the table, foreclosures in New Hampshire since 2008 have not seen the nearly 100 percent increases that the state faced in 2006 and 2007. Instead, foreclosures have remained within a relatively steady band around 3,600 foreclosures per year, which may be permanently elevated until macroeconomic conditions such as employment and general consumer confidence in the economy improve.

Table 2. Foreclosure Deeds in New Hampshire by Month 2008-2012

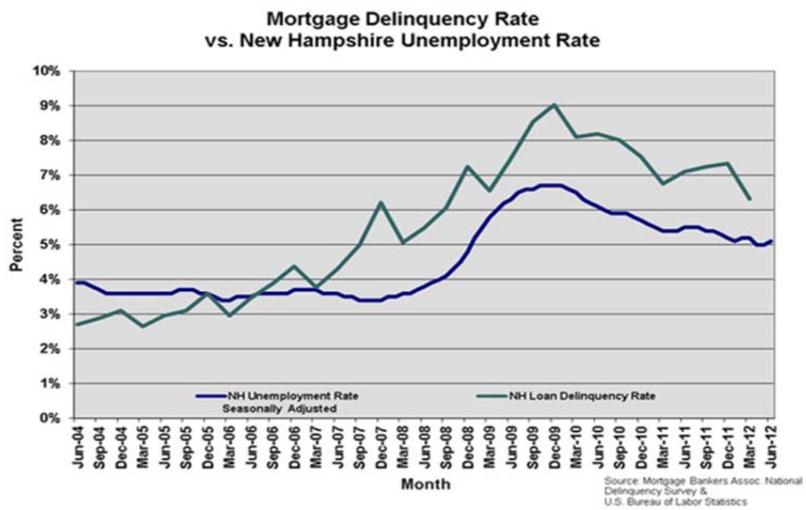
Foreclosure Deeds In New Hampshire by Month

	2008	2009		2010		2011		2012	
Month	Number	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.	Number	Yr/Yr %Chg.
January	251	264	5%	352	33%	184	-48%	288	57%
February	221	214	-3%	326	52%	286	-12%	313	9%
March	283	332	17%	449	35%	543	21%	362	-33%
April	329	303	-8%	361	19%	404	12%	384	-5%
May	291	297	2%	323	9%	340	5%	351	3%
June	334	260	-22%	377	45%	343	-9%	331	-3%
July	305	298	-2%	346	16%	238	-31%	269	13%
August	332	288	-13%	408	42%	321	-21%	282	-12%
September	259	287	11%	326	14%	301	-8%		
October	333	359	8%	255	-29%	262	3%		
November	295	250	-15%	227	-9%	273	20%		
December	330	315	-5%	203	-36%	368	81%		
Total	3,563	3,467	-3%	3,953	14%	3,863	-2%	2,580	
Average	297	289		329		322			

Source: Real Data Corp, Compiled by New Hampshire Housing

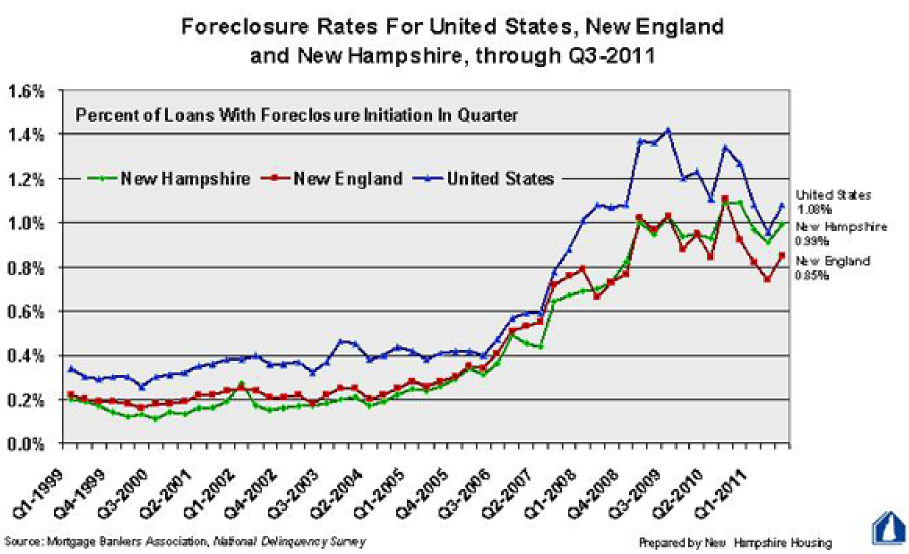
As seen below in the graph, there is a strong correlation between the mortgage delinquency rate and the unemployment rate. When the mortgage delinquency rate began to rise quickly in early 2006, the unemployment rate followed after a brief lag. Since unemployment has not returned to its pre-recession levels, consumer and business confidence still remain very low, and credit markets are still hesitant and volatile, foreclosures have remained at a high, but stable level. In terms of stability, foreclosures have only increased by an average of 4.5 percent over the same timeframe, compared to an average increase of 112.5 percent from 2005 to 2007. As a result, we have seen the New Hampshire mortgage delinquency rate linger around seven percent, far above its pre-crisis level of two or three percent.

Figure 2. Mortgage Delinquency Rate versus New Hampshire Unemployment Rate



Despite the two-pronged set of problems that New Hampshire has faced since its upward trend of foreclosures in 2006, the state has fared much better than national averages and fairly comparable to other states in New England, as seen in the below table.

Figure 3. Foreclosure Rates of United States, New England and New Hampshire 1999-2011



New Hampshire dealt with relatively large numbers of foreclosures and relatively large negative changes in home values. Based upon our analysis, we ranked New Hampshire as the most negatively-impacted state of the three states we analyzed.

2.4.2 Maine

Generally speaking, Maine dealt with many of the same issues in their housing markets, with one major difference: the prevalence of sub-prime lending (direct effect) in Maine was not as much of an issue as in New Hampshire, making the onset of foreclosures in Maine a bit later after the crisis than New Hampshire. Maine managed to survive the housing crisis, in terms of foreclosures, better than the both the national average and the New Hampshire average.

While New Hampshire saw jumps in foreclosures in 2006, 2007, and 2008, and then a bit of a foreclosure correction slowdown, Maine saw constantly increasing trends of foreclosures from 2004 through 2010 due to deteriorating employment circumstances. As seen in the graph below, since 2000 the number of foreclosures started in Maine has not once reached the level of foreclosures started as the US average. As seen in the second graph below from the US Department of Labor, the Maine unemployment rate jumped by 33.3 percent in one year from 2008 to 2009, causing trouble for foreclosures and the housing market in general.

Figure 4. Maine Foreclosures Initiated 1992-2011

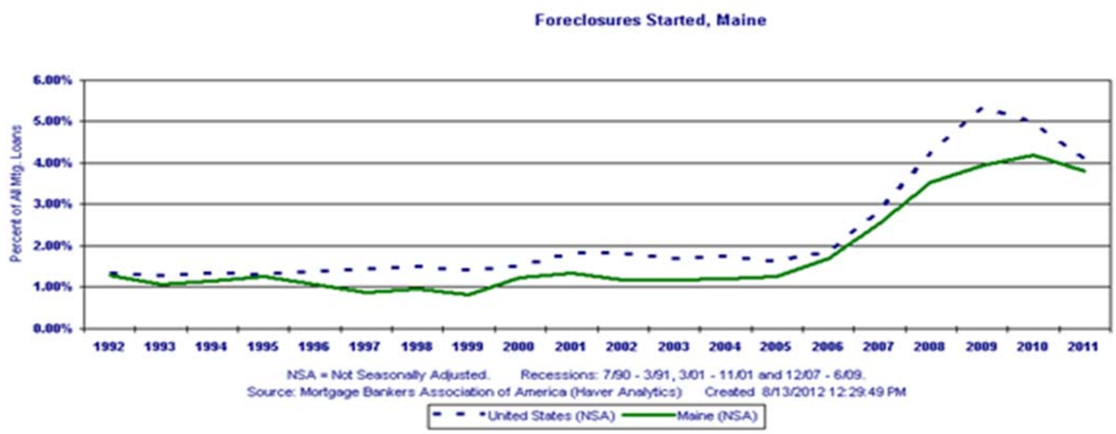
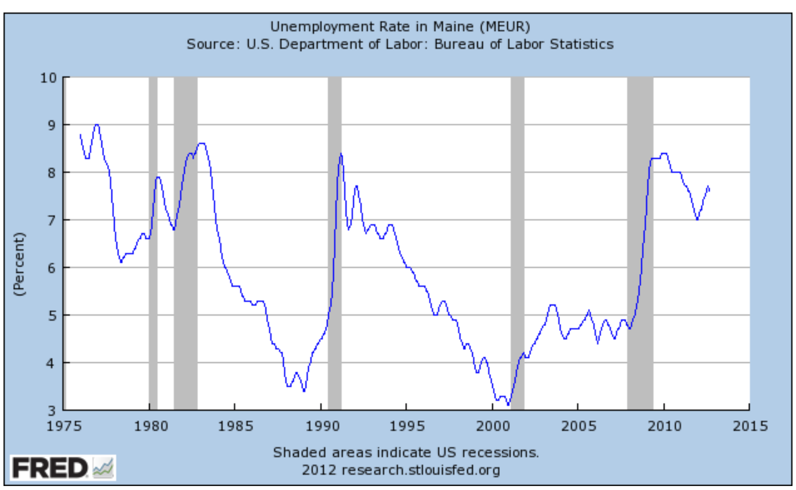


Figure 5. Maine Unemployment Rate 1975-2012



For Maine, we were able to find two separate sources of home pricing data: 1) Maine Real Estate Information System Median Home Prices and 2) LHPI data from Bangor and Portland, Maine. According to the Maine Real Estate Information System, median home prices in the state of Maine were at a pre-crisis level in 2003 of $150,000, rose to a peak of $185,900 in 2007 and fell by 15 percent in only two years back to $158,000 in 2009. According to 2006 LHPI data, Bangor, Maine fell into the 'low risk' category and only faced a -.6 percent change in home price value from 2006 to 2010.

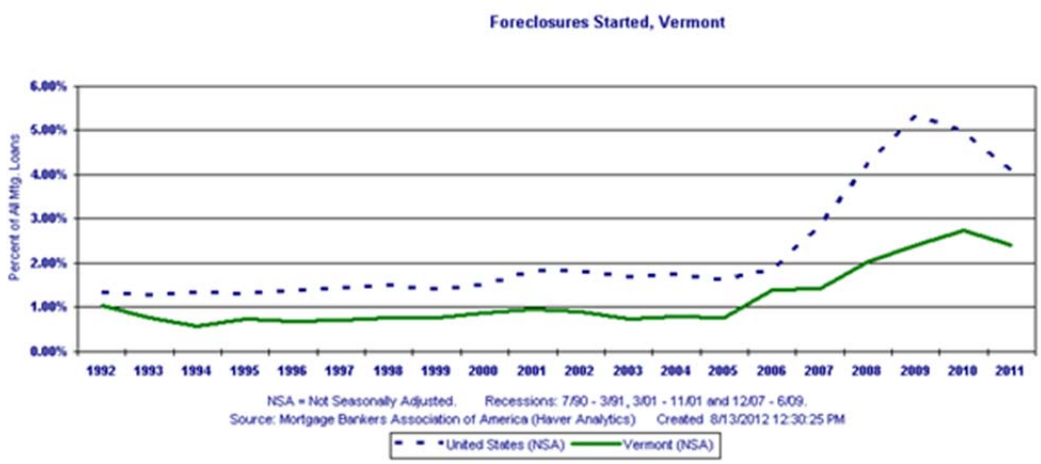
Primarily based on the poor employment conditions in the state, but also due to relatively small negative changes in foreclosures and home values, we ranked Maine as the second most negatively-impacted state of the three, the one in the middle.

2.4.3 Vermont

Vermont is the third state in our comparative analysis. However, the Vermont Housing Finance Agency and the Vermont Secretary of Administration both neglected to get back to us and aid in our research. As a result, we plan to pursue this analysis further as the project moves on, but in the meantime only have relatively limited data on the Vermont housing climate.

From the limited amount of data that we do have, it seems that Vermont was able to steer relatively clear of the housing crisis, especially compared to its counterparts: New Hampshire and Maine. According to a 2010 Mortgage Bankers Association report, Vermont was ranked 46th of all states in mortgage delinquencies and 48th in foreclosure starts. As seen in the graph below, since that time, Vermont foreclosures have trended further downward.

Figure 6. Vermont Foreclosures Initiated 1992-2011



Additionally, the good data continues for Vermont. According to Moody's 2006 LHPI index, Burlington, Vermont was placed into the 'low risk' category with a prediction that housing prices would recover in 2008. We ranked Vermont as the least-negatively impacted state of the three, the "best performing" state in our analysis.

2.5 Conclusions from Comparative Analysis: Moving Forward

Though we are without all of the necessary data to make all the judgments on the magnitude to which the housing markets of New Hampshire, Vermont, and Maine were negatively impacted because of the housing crisis, our findings show that the rankings from surviving the best to worst go: 1) Vermont, 2) Maine, and 3) New Hampshire. Moving forward, we would like to pursue *why* each state reacted the way it did to the housing crisis. Why were there variations between the states in terms of subprime activity? How was Vermont able to avoid the direct pain of the crisis so effectively? Pursuing follow up interviews with our respective sources in the New Hampshire, Vermont, and Maine state housing agencies could help us to shed some light.

Finally, after concluding our analysis, we can definitively say there were harms caused by the housing crisis. For this reason, there needed to be some external 'fix' to the problems caused by the housing crisis, and not just a market correction of the housing equilibrium.

3. FORMATION AND TERMS OF THE NATIONAL MORTGAGE SETTLEMENT

3.1 Main impetus for the settlement was discovery of fraudulent banking practices

In addition to all these macroeconomic stresses, the mortgage servicing practice of "robo-signing" played a key role in magnifying the crisis. While New Hampshire is not one of them, 25 states require a "judicial foreclosure" process. The process involves submitting documents in court that 1) affirm the homeowner has defaulted on a mortgage and 2) prove the lender owns that mortgage. These documents, called affidavits, are signed under oath by bank employees.

During the mortgage crisis, it was discovered that many large banks were systematically using false affidavits. Instead of personally reviewing the documents and ensuring that foreclosure was warranted in every case, bank employees were signing thousands of documents a month without verifying what each claimed. The practice came to be known as robo-signing.

While robo-signing captured national media attention, another illegal practice known as dual tracking also cost thousands of people their homes. Under dual tracking, borrowers are told by one bank representative that they will be foreclosed on, while another promises that they can renegotiate the terms of their loan. The result is that some individuals were pushed out of homes that they thought the bank was helping them save. This lack of transparency was mirrored in other bank practices, which include but are not limited to: not disclosing all loan terms and not requiring homeowners to disclose their incomes or property value. As a result, many people who should not have qualified for mortgages did.

Assistant Attorney General James Boffetti believes there was also the more general problem of banks not acting in good faith. For example, some mortgage holders had to fax in loan modification documents numerous times, because banks kept losing the previous submissions.[12]

3.2 Structure of the national mortgage settlement

Multistate coalitions, formed to address mortgage servicing issues, have existed for many years. However, 2010 marked the beginning of a national effort. In October 2010, the state attorneys general announced the creation of a 50-state Mortgage Foreclosure Multistate Group. Its stated purpose was to investigate the prevalence of robo-signing.[13] The attorneys general brought state bank and mortgage regulators into the group's proceedings, and soon linked efforts with federal agencies. Most notably, the US Department of Justice (DOJ) led the federal aspects of the investigation and settlement negotiations. The group also worked closely with the US Department of Housing and Urban Development (HUD) and the US Department of the Treasury.[14]

After submitting a complaint to five of the largest US banks and receiving consent judgments from each, the national mortgage settlement was finalized. The participating banks were Bank of America, JPMorgan Chase, Wells Fargo, Citigroup and Ally Financial (formerly GMAC). The settlement was signed by all states except Oklahoma in February 2012 and approved by the US District Court of DC in April of 2012.

The Mortgage Foreclosure Multistate Group (now a state and federal coalition) hopes to forge similar agreements with smaller mortgage servicers once the first settlement is sufficiently underway. These agreements also centered around unfair foreclosure practices.[15]

3.3 Terms of the settlement

Collectively, the banks will provide at least $25 billion in consumer relief. The money will be distributed as follows:[16]

- At least $17 billion in principal reduction and loan modification for homeowners who are in trouble and need help avoiding foreclosure.
- Up to $3 billion in refinancing for "underwater" homeowners who are current on their mortgages but owe more than their homes' current market value.
- $1.5 billion in one-time payments to people who lost their homes to foreclosure.
- Payments to the 49 signing states (they can be used to fund consumer protection programs, education programs, or civil penalties).

Note that the first two terms together comprise a $20 billion criminal penalty that the banks will have to pay out over time.

The settlement also establishes the first-ever nationwide reforms to mortgage servicing standards. It includes 304 actionable standards in total, some of which are already in place. Banks are already delivering better customer service, through better communication with borrowers and more adequate levels of staffing and employee training. Notably, the standards fix the problems that caused the settlement's origination. Requiring a "single point of contact" and "integrity of documents" addresses the dual tracking and robo-signing problems, respectively.[17]

The enforcement of this "due process" will be tasked to the Office of Mortgage Settlement Oversight. The Office was created by the settlement and is a direct funding recipient. Its Commissioner, Joseph Smith, has a three and a half year appointment. He will ensure compliance with the settlement in two ways. First, banks are required to make quarterly reports to the states about relief undertaken in each state and the nation as a whole. Second, banks must provide the Monitor with quarterly information about their general performance under the settlement.

3.3.1 Division of settlement funds among the states

Each state got a different amount of money under the settlement (state settlement funding consists partly of direct relief from banks to borrowers, and partly of payments to the states). In deciding how the $25 billion would be divided, the attorneys general, banks, and HUD created a complicated formula. Among other things, this formula took into account each state's population, number of residents with loans from the participating banks, number of loans outstanding, number of loans delinquent, and number of foreclosures and bankruptcies. We are still in the course of tracking down the precise formula.[18]

To take New Hampshire as an example, the state received $43.6 million under the settlement: $33 million in direct relief and $10.5 million in state direct payments. Because so much of the settlement's efficacy hinges on interactions between banks and borrowers (as opposed to states and borrowers) our judgment of whether or not New Hampshire received a "fair" amount of money is complicated. So far, only data on state direct payments has been aggregated.[19]

Even if we can make an informed judgment about the equity of New Hampshire's settlement share, it may have little tangible effect. According to Boffetti, the 50 states came together in formulating the settlement because it was more efficient to look at the mortgage crisis on a national scale than for each attorney general to have a myopic concern about his particular state. When a state joins a national settlement and receives a slice of the pie, the state must "take it or leave it".[20] Ultimately, the agreement had to be tailored towards the macro climate of US housing markets, as opposed to being some sort of compromise between different states' wishes.

3.3.2 Direct relief and the settlement's incentive structure

Banks can provide direct relief to borrowers in many forms. They can modify the terms of their loans, usually through interest rate reductions. They can agree to mortgage short sales, whereby a property is sold for less than the outstanding mortgage balance that is due. The bank thus accepts a less-than-full repayment. They can assist homeowners with refinancing programs or allow forbearance on unemployed borrowers. Lastly, banks may engage in principal reductions. This move takes into account the inflated housing prices of the early 2000s. Because homeowners who purchased at the peak of the housing bubble paid far more than their homes were worth, they are now under water and cannot refinance in typical ways. Principal reduction provides the solution.

Banks must pay $20 billion in criminal fees under the settlement, but the settlement purposefully includes a loophole for them: any direct relief that banks provide can be credited towards their criminal penalty. Credit ranges from "dollar for dollar" credit on principal reductions and "five cents on the dollar" for certain forbearance activities. Banks can also receive an additional 25 percent credit for any principal reductions and refinancing that they execute before March 1, 2013.[21] Under these settlement terms, all parties benefit. State governments do not have to be directly involved in homeowner assistance, yet their citizens are helped. Banks, while still paying the same amount at the end of the day, can work off their fees by actually helping people instead of continuously writing off checks. Borrowers receive relief in a tangible, immediate form.

The incentive structure is working well thus far. As of August 29, 2012, consumer relief from the five banks totaled about $10.6 billion.[22] This relief came in the form of loan modifications, short sales, and refinancing.

4. DETERMINING THE EFFICACY OF NEW HAMPSHIRE'S PLAN AND PROPOSED PROGRAMS: AN OVERVIEW AND NATIONAL COMPARISON

This section will first focus on New Hampshire relief allocation to consumers and programs so far and then make a comparison to those of Maine and Vermont. Next, programs implemented by all involved states across will be used to carve out the success of New Hampshire's strategy and which areas its approach is lacking. Finally, voids of information to make concrete criticism about the manner in which the settlement has been allocated or proposals about how the Attorney General should allocate funds will be identified.

4.1 Proposed Allocation of New Hampshire's 43.6 Million Share of the Settlement

Of the $43 million dollars allocated to New Hampshire, $33 million will directly benefit the consumer.[23] According to Boffetti, most states have indicated that the money will be used to help homeowners stay in their homes regardless of their circumstances. This direct payment will aid all homeowners, not just those who received mortgages from one of the five involved banks. The $33 million will be divided up as follows: $19.4 million in direct relief such as loan changes, $4.5 million in payments for borrowers who lost homes to foreclosure from 2008-2011, and $9.5 million in refinanced loans to underwater borrowers.[24]

The remaining $10.5 million is a "direct payment to New Hampshire" that will be divided up so that the New Hampshire Banking Department receives $1 million dollars and the Department of Justice receives $9,575,447.[25] The Attorney General's Office has proposed a three point plan to spend the Department of Justice's allocation, which has yet to be approved by a legislative fiscal committee.

4.1.1 New Hampshire Consumer Relief as of August 29, 2012

The Office of National Mortgage Oversight tracked the progress of consumer relief since the report was published on August 29, 2012.[26] Other than setting ground rules going forward, this information communicates that homeowners who meet the criteria have already significantly benefited from the settlement.

Table 3. New Hampshire Consumer Relief and Trials by Bank[27]

	Ally Fin.	**Bank of America**	**Citi Group**	**Chase Bank**	**Wells Fargo**	**Total Relief**	**No. Borrowers**	**Avg. Relief**
Total Consumer Relief	$3.13M	$6.43M	$3.11M	$3.72M	$707K	**$17.08M**	357	$48K
Trials Approved		$4.59M	$644K	$2.32M	$619K	$8.17M	100	$82K
Trials in Process		$955K	$644K	$2.58M	$193K	$4.37M	77	$61K

According to the report, the banks have collectively provided $17,076,856 in consumer relief. Mortgages where loan modification offers have been approved or are in process after March 1, 2012 are not a part of this total consumer relief, but are included.[28]

4.1.2 Resulting Programs from State Direct Payment: 3 Step Plan

Assistant Attorney General Boffetti outlined a three-step plan on how to spend the money allocated to the Attorney General's office.[29] This plan has been approved by the governor and the executive council, and now has to go to the legislative fiscal committee of New Hampshire state government, which will meet on this issue on November 13, 2012. $3.5 million will be used for housing counseling agencies around the state to help individual homeowners on a face-to-face basis. Another $3.5 million will pay for legal assistance, private attorneys, and other legal advisors to people who are going through foreclosures. Private attorneys must be used, because state attorneys cannot provide legal advice. Finally, $3.5 million will be used to improve consumer protection and to prosecute financial crimes with the intent of preventing another crisis of this magnitude. The state plans on increasing consumer protection enforcement for financial crimes by authorizing a financial fraud unit and investigating a full range of financial crimes that can include securities and investment.[30]

4.1.3 New Hampshire Programs in Effect

Some of these programs proposed programs are already aiding homeowners. The mortgage hotline has received a couple of thousand calls, eight hundred of which have been processed.[31] The Attorney General's office is also seeking to draw attention to changing servicing standards.[32]

As a part of the direct relief package, the $4.5 million dollar, one-time payment provision for roughly 7,600 borrowers whose houses were foreclosed between 2008 and 2011 has begun to be disseminated, a process managed by the New Hampshire Attorney General's office.[33] Applications are currently being mailed consisting of a claims form for a payment between $1200 and $2000. As opposed to compensating those who lost their homes, this payment "is a way to recognize there was wrongdoing."[34] Assessing the efficacy of this manner of delivery cannot be determined until after the payments have been made.

4.1.4 Beyond the 2012 Election: Future Politicized Issue

Further, Boffetti does think the issue has been politicized and does not believe that the election cycle will affect the state allocation.[35] The Executive Council of New Hampshire has been a strong proponent of helping consumers. Further, by the time the next governor takes power and legislature begins considering legislation, many of the programs will have been implemented.

4.2 Three Point Comparison with Vermont, Maine, and New Hampshire

Using the three state comparison, Vermont and Maine's settlement reward and subsequent allocation can be compared to those of New Hampshire to demonstrate that the settlement was distributed based on severity of the state's housing crisis.

4.2.1 Settlement Rewards per State: Vermont, Maine, and New Hampshire

Below is an overview of a breakdown of each state's settlement package. Vermont and Maine have settled on the following allotments, while once again, New Hampshire is waiting for approval. Maine and Vermont, two states that fared better than New Hampshire during the crisis, received significantly less money and subsequently have fewer funds going into consumer relief and programs.[36]

Table 4. Settlement Rewards for Maine, Vermont, and New Hampshire

Maine[37]	**Vermont**[38]	**New Hampshire**
$21 Million dollar cut total • $1.9 Million if lost home between 2008 and 2011-cash payment • $7 million though principal reduction and short sales • $8.2 million set aside for programs that help prevent foreclosure • Remainder goes to state general fund	$6.7 Million total • $3.1 million to Vermont residents ($411,000 for foreclosures between 2008-2011) • $3.6 million to state funds	$43.6 Million total • $19.4 million in direct relief such as loan changes • $4.5 million in payments for borrowers who lost homes to foreclosure from 2008-2011 • $9.5 million in refinanced loans to underwater borrowers • 10.5 million in a state direct payment

4.2.2 Consumer Relief Comparison with Maine and Vermont as of Aug 29, 2012

Based on the state allotment, the amount of money that has reached consumers so far according to the Office of National Oversight's report in each state differs proportionally.

Table 5. Consumer Relief and Trials by State[39]

	Maine	**Vermont**	**New Hampshire**
Total Consumer Relief	*$10,619,479*	*$762,236*	*$17,076,856*
Trials Offered	$3,875,497	$618,189	$8,169,774
Trials Approved	$2,511,671	$394,187	$4,369,618

The significantly fewer amount of funds already allotted by Vermont and Maine cannot be attributed to a smaller amount of programs or a lacking on the behalf of each Attorney General's office to advertise the benefits of the mortgage settlement to homeowners in their respective state. The next section will compare the efforts of each Attorney General to allocate the state direct payment effectively.

4.2.3 State Direct Payment Comparison with Maine and Vermont

The chart below reviews how much each state plans on using their direct payment on housing and what programs will be created or supported with the funds.

Table 6. Direct Payments by State

Maine ($6,907,023 total allotted)[40]	**Vermont** ($2,552,240 total allotted)[41]	**New Hampshire** ($9,575,447 total allotted)[42]
• Decision is complete • 36 percent going to housing • 500,000 will go to Pine Tree Legal; 2 million for the Maine Bureau of Consumer Credit Protection, and 5.7 million for the general fund	• Decision is complete • 50 percent going to housing • Half of the direct settlement going to housing counselors, legal assistance, and manufactured home financing program; nothing concrete created	• Decision is incomplete • 100 percent going to housing • Seeks to prevent foreclosures and fund counseling programs: 2.5 million to the NH Housing Finance Authority for counseling services; 1.5 million to NH Legal Assistance and NH State Bar pro-bono referral program (updated)

The significantly smaller amount of national mortgage settlement money used to support homeowners in Maine and Vermont through state programs demonstrates that New Hampshire leads in supporting homeowners with the direct allotment.

4.3 Comparison Programs on National Level

New Hampshire is using all of the funds for housing purposes unlike Vermont and Maine, so the three state comparison would not be satisfactory to analyze programs in action. This analysis will be expanded to address the allotment toward housing and supported programs by states that have made a definite or tentative decision at this point.[43]

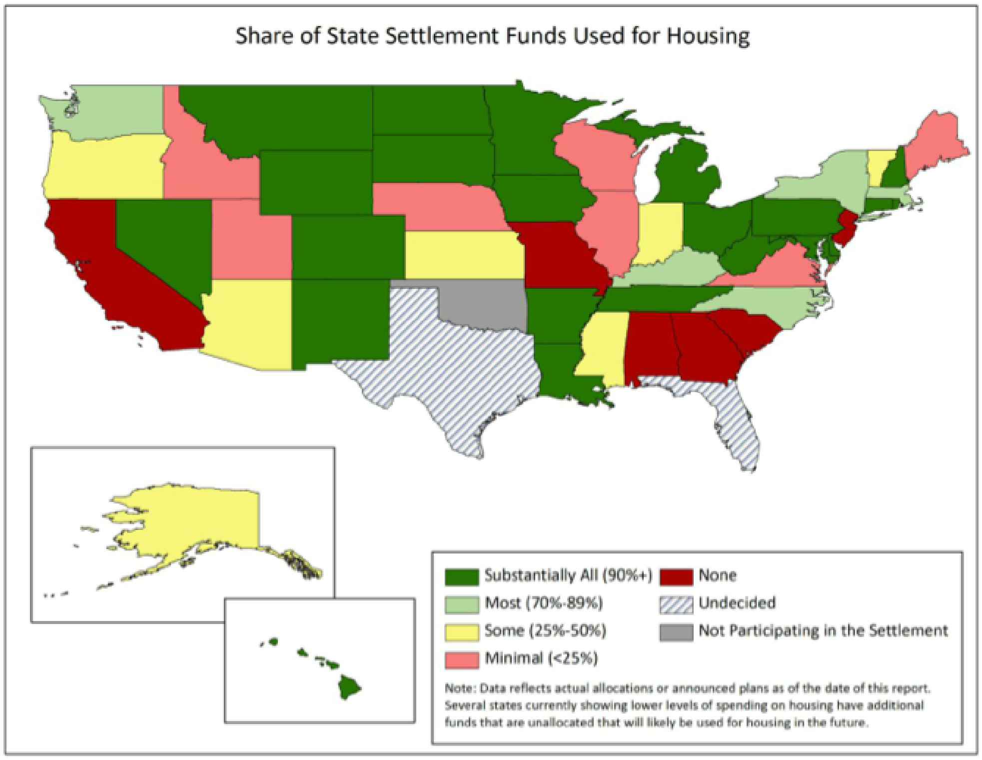
4.3.1 Slow Implementation across 45 Involved States

First, such the implementation of state programs nationally has yet to near completion even six months after the settlement. According to a recent study by Enterprise, less than half reached of the funding has been designated for housing. While $977 million has been devoted to housing or fore-closure related programs, $989 million has been directed to state general funds and $588 million has yet to be allocated.[44] Thus New Hampshire is in the minority of states that have followed the mission of the settlement to use funds to prevent foreclosure and stabilize communities.

The issue of other states appropriately using state funds lies with problems over a clear source of authority of allocation. Governors and state legislatures seek to use the funds for other projects or fill budget gaps, even though Attorney Generals directed states in the settlement to use the funds for programs related to its intended purpose. Thus funds are misdirected in many states. The inclusion of the legislature and governors in that process scatters authority over which office decides the allocation of the funds.[45] New Hampshire has not had a public dispute, allowing the attorney general to be the direct recipient of the funds.

4.3.2 Shares of Settlement Used for Housing Nationally

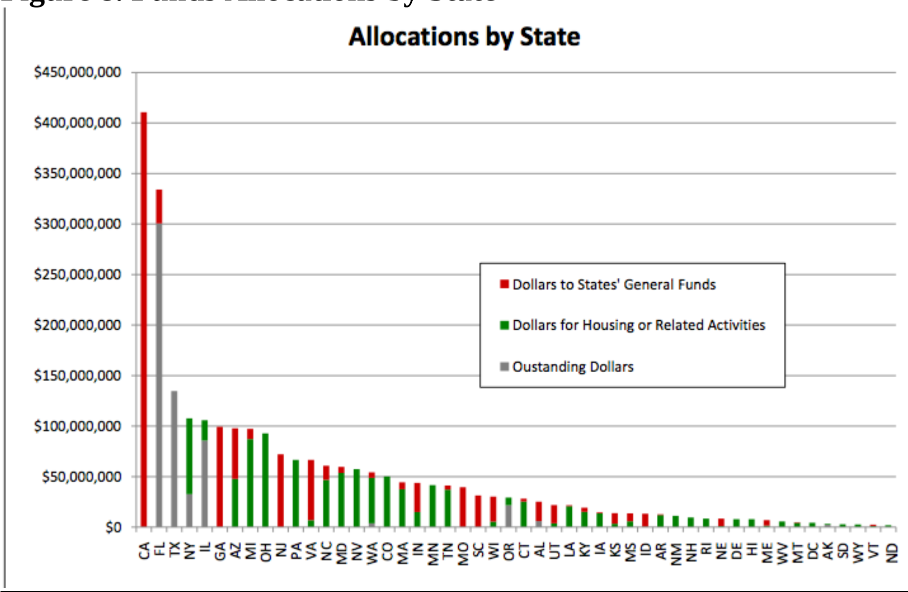
Figure 7. Shares of Settlement Funds Used for Housing by State[46]



While almost half of the states have used substantially all of the funds toward housing, most have directed the funds to unrelated sources. Twenty-three states have used 90 to 100 percent of funds; five states have used 70 to 80 percent; fourteen have used less than 50 percent; seven have used less than 25 percent; and six states are not using the funds toward housing at all.[47]

The chart below illustrates this point while including the significantly varying sized portions of allocation per state.

Figure 8. Funds Allocations by State[48]



Because some states refuse to use the state direct payments for their intended programs, settlement money does not consistently reach homeowners. However, many successful programs to benefit homeowners are not drawn from this budget at all. A state with a very comprehensive mortgage settlement monitor, California, did not use the settlement money at all for the creation of this office yet the state leads the nation with their innovative programs. Thus a comparison of successful programs cannot rely on just how much money is contributed to the programs from the direct state payment itself.

4.3.3 Programs Created or Supported Within All States

Below is a compilation of programs created or supported by the state direct payments.[49]

- 25 states: legal assistance to homeowners
- 21 states: housing counseling
- 17 states: law enforcement or more litigation
- 14 states: marketing or outreach to educate residents about foreclosure-prevention options
- 13 states: foreclosure prevention
- 8 states: affordable housing programs
- 8 states: foreclosure mediation programs
- 7 states: neighborhood stabilization activity
- 7 states: foreclosure prevention hotlines
- 5 states: foreclosure scam rescue programs
- 4 states: loan modification programs

The three most common exist in New Hampshire already. Either the other programs were deemed by the Attorney General to be the most cost effective or New Hampshire lacks as comprehensive a strategy as its peers. This analysis will be made after profiling a model state monitor program.

4.3.4 How New Hampshire Compares Thus Far

As a state that did not use its Tobacco Master Settlement allocation for the designated purposes, New Hampshire has at least directed the money toward appropriate sources. New Hampshire has also surpassed many states in creating multiple programs that not just serve as immediate resources for struggling homeowners and disseminating resources, but also creating agencies to prosecute future financial fraud. The state is one of seven to spend funds on foreclosure hotlines and one of about half to have foreclosure prevention, legal assistance, housing counseling and funds devoted for law enforcement.

However, New Hampshire does not have a neighborhood stabilization program, affordable housing programs, mediation programs or a comparable marketing and outreach program such as presentations or an independent website.

4.4 Further Information

The preceding sources must be consulted as both borrowers receive relief and programs become fully implemented before a concrete comparison can be made between how New Hampshire compares to the progress made by other states. Further, an analysis of the efficacy of such programming, whether monetarily or through indirect help such as counseling, cannot be made until each of the states to be used as a part of the metric have collected oversight data.

4.4.1 New Hampshire

A concrete timeline regarding how the New Hampshire program will be implemented after the funds are approved will serve those seeking to assess the implementation. Until then, the efficacy of the related programs cannot be made. Further, other efforts to improve the New Hampshire housing market that work alongside mortgage servicing reforms have not been looked into by this report, but may have benefited consumers alongside the settlement's provisions. Finally, analysis into the effectiveness of New Hampshire's programs could be immensely helped by a monitor that tracks the implementation of new servicing standards such as dual tracking, complaints received over time, and cases processed by all programs receiving state funds.

4.4.2 National Office of Oversight Reports

Once again, the Office of National Mortgage Settlement oversees the banks' implementation of over 300 servicing standards and provision of consumer relief.[50] Servicers will not release the

State Reports to states and the Monitor until November 14, 2012, so gauging the efficiency of the change in servicing standards cannot be done at this time. More will be released over the next four years on February 14, May 15, August 14, and November 14 until the consumer relief obligations are satisfied.[51] Services will also deliver performance reports on those dates.

At the start of each year the Office will receive a satisfaction review of consumer relief requirements from the Servicer's Internal Review Group and will assess the effectiveness of the banks at implementing the service standards against 29 metrics.[52] These tools will be useful for New Hampshire, because there are currently no sources of assessing the success or compliance of servicing implementation.

5. CONCLUSION

5.1 Promising short-term performance but questionable long-term stability

The settlement has done a thorough job in fixing the specific problems it was designed to address, and also shifting the balance of power in the mortgage-servicer-to-borrower relationship. Its servicing standards range from very specific ("a single point of contact" eliminates dual tracking) to very broad-based ("better customer service"). Each new standard changes the rules of the game though. Mortgage holders will hopefully no longer suffer from the lack of transparency that plagued the early 2000s.

Moving forward, we will see if the banks' rapid progress in providing direct relief lasts. Because the settlement incentivizes direct relief made during the first year of the settlement, one question naturally arises: will banks be as eager in their assistance when the one-year window closes? It is yet to be seen whether the credit incentive structure can be sustained into the long run.

5.2. Tentative Placement of New Hampshire Settlement Nationally

Once again, more time for programs to be established and consumer relief to be administered is needed before this study can conclude whether New Hampshire made the best decisions in allocating state money. Following the comparison nationally, the approach was not innovative, but comprehensively provided the advice consumers needed. The state also devoted its state provision completely to housing issues. Therefore, New Hampshire is on the right track. Whether or not the specific manner it went about this can only be done retrospectively.

6. REFERENCES

[1] "Economic News Release: Employment Situation Summary". US Department of Labor, Bureau of Labor Statistics. Report from Friday, October 5, 2012. Ibid. <http://www.bls.gov/news.release/empsit.nr0.htm>

[2] "30 Year 1/1ARM: From 1986-Present". National Averages by Year for 30, 15 Year 1/1 ARM. HSH Associates, Financial Publishers. Published 1Q, 2012. Ibid. <http://www.hsh.com/mtghst/mortgage-rates-by-product/30-Year-1-ARM>

[3] The New York Times Economy Section: "Housing's Rise and Fall in 20 Cities". Kevin Quealy and Jeremy White. S&P Case-Shiller Index. Updated September 25, 2012. Ibid. <http://www.nytimes.com/interactive/2011/05/31/business/economy/case-shiller-index.html#city/IND20>

[4] Financial Times: "Wave of Lawsuits Engulfs Troubled Lenders". Tom Braithwaite and Kara Scannell. September 6, 2011. Ibid. <http://www.ft.com/cms/s/0/c0ec8aae-d7c3-11e0-a06b-00144feabdc0.html#axzz2Ae56ujBo>

[5] "I, Candidate for Governor: And How I Got Licked". Published by University of California Press. P. 109. Accessed on October, 24, 2012.

[6] Federal Reserve Bank of St. Louis: "The Evolution of the Subprime Mortgage Market". Souphala Chomsisengphet and Anthony Pennington-Cross. Published February 2006. P. 32-37. < http://research.stlouisfed.org/publications/review/06/01/ChomPennCross.pdf>

[7] The Heritage Foundation: "A Housing Market Without Fannie Mae and Freddie Mac: The Effect of Housing Starts". Nahid Anaraki. October 4, 2012. P. 7-9. <http://www.heritage.org/research/reports/2012/10/a-housing-market-without-fannie-mae-and-freddie-mac-effect-on-housing-starts>

[8] The Huffington Post: "IMF Predicts Mortgage Crisis Could Cost $1 Trillion". International Herald Tribune Column Board. Updated 5/25/11. Ibid. <http://www.huffingtonpost.com/2008/04/08/imf-predicts-mortgage-cri_n_95724.html>

[9] New Hampshire Housing Finance Authority: "Mortgage Delinquency, Foreclosures, and Subprime Lending in New Hampshire". Update July 2008. P. 5. Accessed on October 26, 2012. < http://www.nhhfa.org/rl_docs/housingdata/SubprimeStudy_07-08.pdf>

[10] Mortgage Bankers Association. Press Release: "Delinquencies and Foreclosures in Latest MBA National Delinquency Survey". Published September 5, 2008. Ibid. <http://www.mortgagebankers.org/newsandmedia/presscenter/64769.htm>

[11] Moody's Analytics: "Housing Market Monitor". Sunayana Mehra. Published November 17,2011. Accessed on October 22nd, 2012. Ibid. <http://www.moodysanalytics.com/~/media/Brochures/Economic-Consumer-Credit-Analytics/Examples/housing-market-monitor.ashx>

[12] Boffetti, James. Telephone interview. 25 Oct. 2012.

[13] "50 States Sign Mortgage Foreclosure Joint Statement." National Association of Attorneys General, n.d. Web. 31 Oct. 2012. <http://www.naag.org/joint-statement-of-the-mortgage-foreclosure-multistate-group.php>.

[14] "State Attorneys General, Feds Reach $25 Billion Settlement with Five Largest Mortgage Servicers on Foreclosure Wrongs." NAAG, n.d. Web. 31 Oct. 2012. <http://naag.org/state-

attorneys-general-feds-reach-25-billion-settlement-with-five-largest-mortgage-servicers-on-foreclosure-wrongs.php>.
[15] Ibid.
[16] "About the Mortgage Settlement." *Office of Mortgage Settlement Oversight*. N.p., n.d. Web. 31 Oct. 2012. <https://www.mortgageoversight.com/about-the-mortgage-settlement/>.
[17] Smith, Joseph A. "First Take: Progress Report from the Monitor of the National Mortgage Settlement." Office of Mortgage Settlement Oversight, 29 Aug. 2012. Web. <https://www.mortgageoversight.com/wp-content/uploads/2012/08/OSMO_MonitorsReport_22_ALL.pdf>.
[18] Boffetti, James. Telephone interview. 25 Oct. 2012.
[19] Jakabovics, Andrew, and William McHale. "States Fall Short on Help for Housing." Enterprise, n.d. Web. <http://www.enterprisecommunity.com/servlet/servlet.FileDownload?file=00Pa000000Gb8pnEAB>.
[20] Boffetti, James. Telephone interview. 25 Oct. 2012.
[21] Smith, Joseph A. "First Take: Progress Report from the Monitor of the National Mortgage Settlement." Office of Mortgage Settlement Oversight, 29 Aug. 2012. Web. <https://www.mortgageoversight.com/wp-content/uploads/2012/08/OSMO_MonitorsReport_22_ALL.pdf>.
[22] Ibid.
[23] Phone interview with James Boffetti from the Office of the Attorney General of NH on 10/23/2012.
[24] “New Hampshire Joins $25 Billion Joint State-Federal Mortgage Servicing Settlement on Foreclosure Wrongs” Press Release. New Hampshire Department of Justice. 02/09/2012. http://doj.nh.gov/media-center/press-releases/2012/20120209-nh-joins-mortgage-settlement.htm.
[25] Phone interview with James Boffetti from the Office of the Attorney General of NH on 10/23/2012.
[26] Office of Mortgage Settlement Oversight. “First Take: Progress Report from the Monitor of the National Mortgage Settlement.” 08/29/2012. https://www.mortgageoversight.com/wp-content/uploads/2012/08/ProgressReport08292012.pdf.
[27] Office of Mortgage Settlement Oversight. “First Take: Progress Report from the Monitor of the National Mortgage Settlement.” 08/29/2012.
[28] Ibid.
[29] Phone interview with James Boffetti from the Office of the Attorney General of NH on 10/23/2012.
[30] Ibid.
[31] Ibid.
[32] Ibid.
[33] Phone interview with James Boffetti from the Office of the Attorney General of NH on 10/23/2012.
[34] Ibid.
[35] Ibid.

[36] Phone interview with James Boffetti from the Office of the Attorney General of NH on 10/23/2012.
[37] "Maine to get $21 Million in Nationwide Foreclosure Settlement." The Maine Public Broadcasting Network. 02/09/2012. http://www.mpbn.net/Home/tabid/36/ctl/ViewItem/mid/3478/ItemId/20189/Default.aspx.
[38] "Vt. to receive $6.7M in natl mortgage settlement." Bloomberg Businessweek. 02/09/2012. http://www.businessweek.com/ap/financialnews/D9SPVMVO0.htm.
[39] Office of Mortgage Settlement Oversight. "First Take: Progress Report from the Monitor of the National Mortgage Settlement." 08/29/2012.
[40] Jakabovics, Andrew and William McHale. "States Fall Short on Help for Housing." Enterprise. http://www.enterprisecommunity.com/servlet/servlet.FileDownload?file=00Pa000000Gb8pnEAB.
[41] Ibid.
[42] Ibid.
[43] Ibid.
[44] Ibid.
[45] Ibid.
[46] Jakabovics, Andrew and William McHale. "States Fall Short on Help for Housing." Enterprise. http://www.enterprisecommunity.com/servlet/servlet.FileDownload?file=00Pa000000Gb8pnEAB.
[47] Ibid.
[48] Ibid.
[49] Ibid.
[50] Office of Mortgage Settlement Oversight. "First Take: Progress Report from the Monitor of the National Mortgage Settlement." 08/29/2012. https://www.mortgageoversight.com/wp-content/uploads/2012/08/ProgressReport08292012.pdf.
[51] Ibid.
[52] Ibid.