Local Government Snapshot

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER

Thomas P. DiNapoli • State Comptroller

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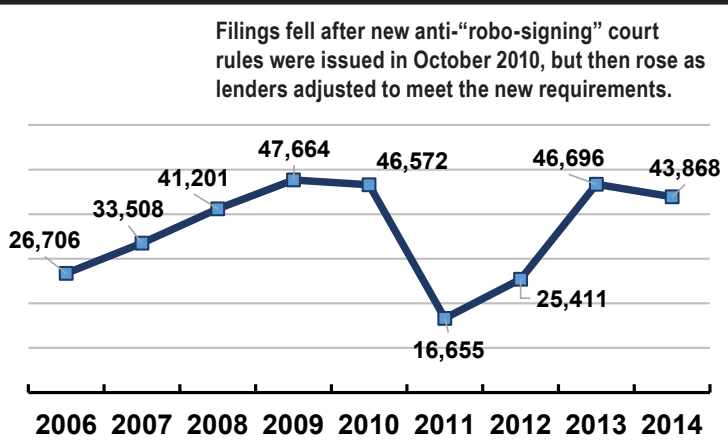
# The Foreclosure Predicament Persists

New York State continues to experience high levels of foreclosure activity. The Office of the State Comptroller (OSC) reported on the foreclosure problem in 2012, highlighting its impact on local governments in New York State.[1] Since then, trends in both new foreclosure filings and the total number of pending foreclosure cases indicate that the problem is far from resolved. Although new foreclosure filings have shown signs of leveling off since 2013, they remain significantly higher than prerecession levels. In addition, the State's courts are experiencing difficulties working through a large backlog of foreclosure cases pending in the State's long and complicated judicial foreclosure process. This large pool of properties in legal limbo weighs on local governments' vitality in many ways, including reducing property values, eroding tax bases and propagating blight.

In 2015, a number of major banks and mortgage servicing companies operating in New York State agreed to follow a set of "best practices" in managing vacant and abandoned properties with delinquent mortgages even before the foreclosure process begins.[2] The practices include inspecting, securing and maintaining the properties throughout the delinquency of the loan. This is a promising development. Ultimately, however, all of the stakeholders—including the courts, the banks, local governments and other groups—must continue efforts to clear the backlog of pending cases to stem the spread of foreclosure-induced blight.

Figure 1.
**Foreclosure Cases Filed in New York State**



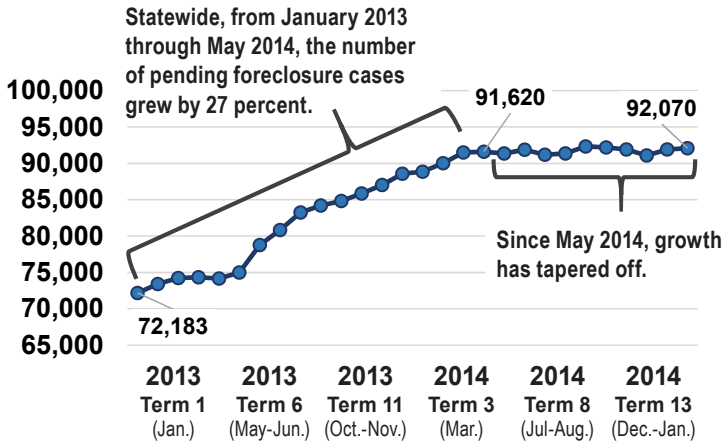

Source: New York State Unifiied Court System. Years are based on Court System reporting periods. New court rules issued in 2010 required lenders to certify the accuracy of the documents they present to the court.

***Trends in both new foreclosure filings and the total number of pending foreclosure cases indicate that the problem is far from resolved.***

## Statewide, New Foreclosure Filings Remain High, While Growth in Pending Cases Has Tapered Off

- Foreclosure filings rose rapidly after the housing bubble burst and the recession of 2008-2009 took hold. As shown in Figure 1, between 2006 and 2009, the number of new foreclosure cases filed jumped from 26,706 to 47,664, an increase of 78 percent.[3] In 2011 and 2012, new filings declined as new court rules were issued requiring lenders to affirm their claim to the property (in response to instances of "robo-signing," in which lender representatives signed documents without reviewing them).[4] Since reaching a low of 16,655 in 2011, filings climbed to 46,696 by 2013 before edging back to 43,868 in 2014, still well above prerecession levels.
- As shown in Figure 2, the number of pending foreclosure cases has begun to level off after growing by 27 percent between the beginning of 2013 and mid-2014 (from 72,183 to over 91,600).

**Figure 2.**
**Total Pending Foreclosures:**
Jan. 2013 thorugh Feb. 2015 by Court Term



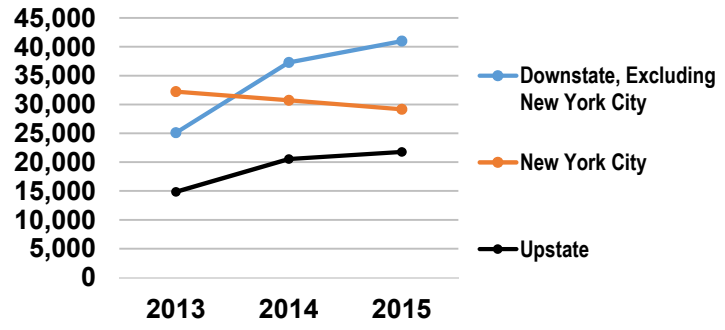

Source: New York State Unified Court System. Each year has 13 court terms with Term 1 beginning in early January.

## Downstate Counties Outside of New York City Have Been Most Affected

Foreclosures are hitting some regions harder than others.

- The downstate area outside of New York City (Long Island and the Mid-Hudson region) has the greatest number of pending foreclosures, and has experienced relatively rapid growth in the number of pending foreclosure cases over the past two years—from 25,097 at the beginning of 2013 to 40,985 two years later, an increase of 63 percent.[5]
- Upstate, growth in pending cases was slower over the same period, but still substantial: a 47 percent increase in pending cases.
- In New York City, by contrast, the number of pending foreclosure cases dropped nearly 10 percent between 2013 and 2015.

**Figure 3.**
**Pending Foreclosure Cases by Region**
(Snapshot at beginning of the year)




Source: New York State Unified Court System. Data is as of Term 1 of the annual court calendar (corresponding roughly to the month of January). Downstate includes Long Island and the Mid-Hudson region.

## Gauging the Magnitude of the Problem at the County Level

Looking only at numbers of properties in foreclosure, it is not possible to get a sense of the prevalence of foreclosure activity in particular areas of the State. One indicator that conveys the severity of the problem is the "foreclosure rate," which represents pending foreclosure cases as a percentage of housing units. This rate is an approximate measure, however, because the foreclosure cases include both residential and nonresidential properties and a single foreclosed property may have multiple housing units. For example, a residential property with four apartments counts as four housing units, even if the property has only one mortgage. Despite these limitations, the measure offers a means of comparing the scope of the problem across regions and counties.[6]

- Statewide, the pending caseload in 2015 represents 1.13 percent of housing units, which amounts to 1 in 88 housing units.
- The foreclosure rate is up from 0.89 percent at the beginning of 2013 (or 1 in 112 housing units). As expected, however, the situation varies widely across the State.

Figure 4 graphs the county-level data showing the percentage change in the number of pending foreclosure cases from the beginning of 2014 to the beginning of 2015 ("Term 1" of the court calendar, which corresponds roughly to the month of January) on the horizontal axis and the foreclosure rate on the vertical axis. Where each county falls relative to these two axes gives a sense of the relative severity of the problem in each county.

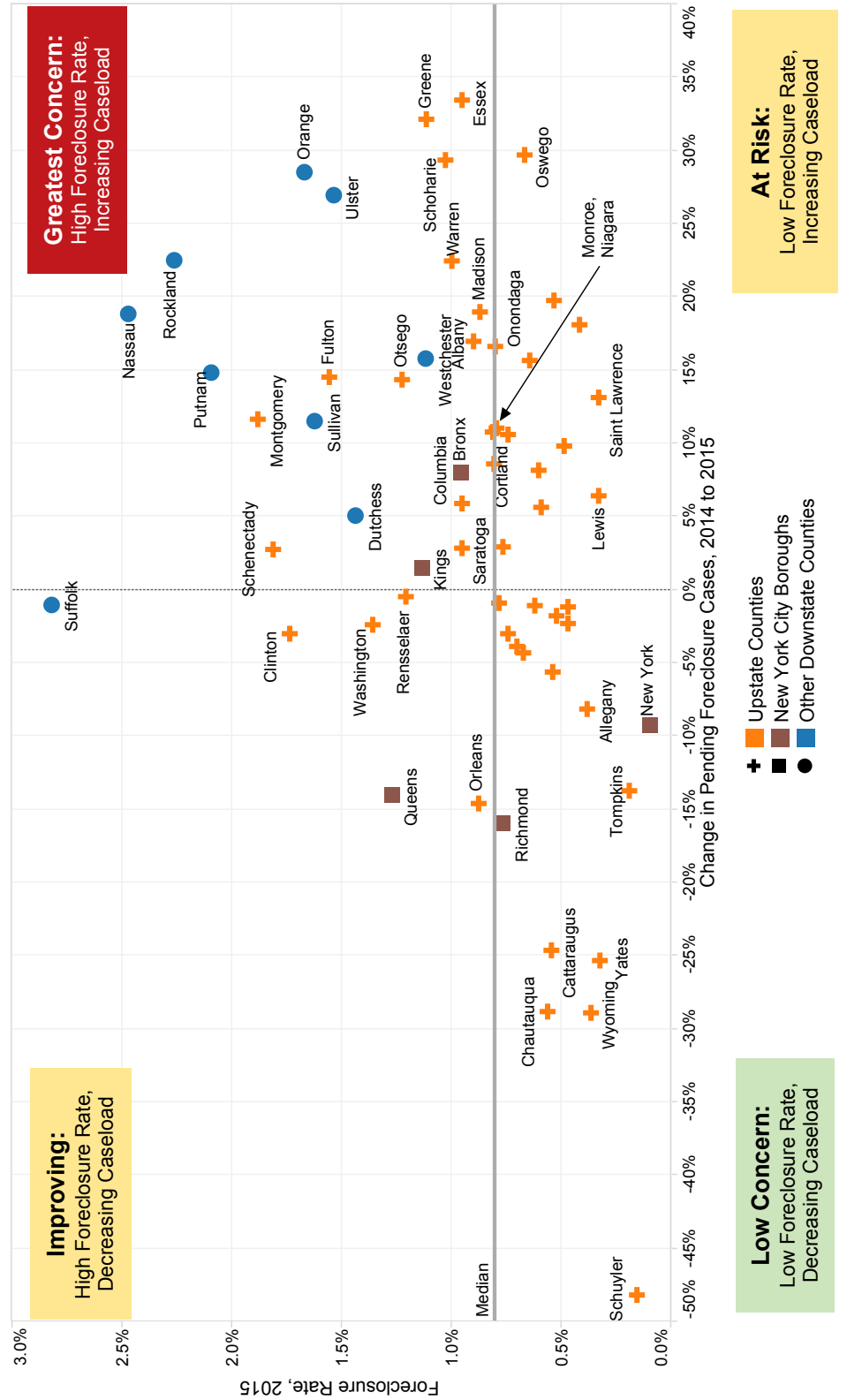
- The upper right quadrant shows the counties where the foreclosure problem is most acute: those with both increasing foreclosure caseloads and high foreclosure rates. Except for Suffolk County, all of the downstate counties outside New York City occupy the upper right quadrant.
- Also, the four counties with the highest foreclosure rates are all located downstate: Suffolk (2.82 percent, or one in every 35 housing units), Nassau (2.47 percent, or one in every 40 housing units), Rockland (2.26 percent, or one in every 44 housing units), and Putnam (2.10 percent, or one in every 48 housing units).
- Counties in Western New York and the Finger Lakes regions, in contrast, tended to have lower pending foreclosure rates and decreasing caseloads.

These findings are in line with previous OSC research that shows that the foreclosure problem has tended to hit hardest in areas where the housing market had "boomed" in the years preceding the recession.[7] What is notable, however, is the persistence of the problem. In many places, not only has the situation not improved, but it has continued to get worse, albeit in most cases at a somewhat slower rate.

## Home Equity Loans Could Pose Additional Challenges

Defaults on home equity line-of-credit loans (HELOCs) could stall improvement—particularly in regions where home values have not yet rebounded. During the housing boom, as home values continued to rise, many homeowners took out long-term home equity loans that offered interest-only payments in the early years of the amortization period before "resetting" to higher payments that include both interest and principal payments. Borrowers facing HELOC resets who have substantial equity in their homes will likely refinance. However, borrowers whose homes have lost value may owe more than their homes are worth. They will likely be unable to refinance associated loans or pay them off by selling their homes. These borrowers could face foreclosure if they are unable to make the new higher loan payments. RealtyTrac estimates that from 2015 through 2018 in New York State 132,492 HELOCs originating between 2005 and 2008 will reset.[8]

Figure 4.
2015 County Foreclosure Rate and Growth in Pending Foreclosure Cases




Source: New York State Unified Court System and U.S. Census Bureau with OSC calculations. The foreclosure rate represents pending foreclosures as a percentage of housing units. Housing unit data is from the American Community Survey (five-year, 2013). See the appendix for the data used for this chart. Foreclosure data is based on snapshots from Term 1 of the court calendar. Data is not available for Hamilton County.

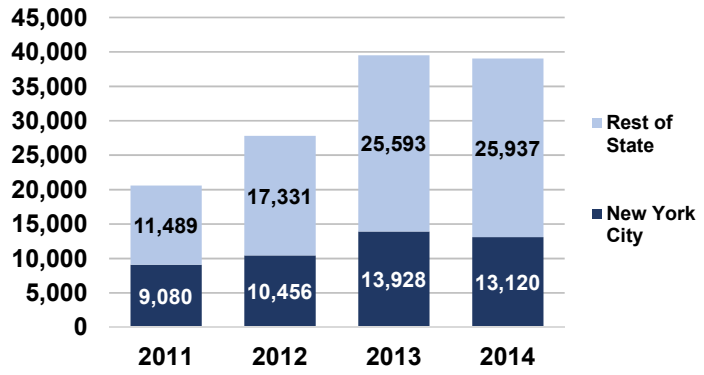
## Small Signs of Improvement

One sign that we could begin to see a noticeable reduction in the statewide pending caseload is that foreclosure activity at the beginning of the process ("lis pendens" filings, a pre-foreclosure action in which lenders file notification of a pending lawsuit) is slowing, while activity at the end of the process (notices of sale, notification that the property has been scheduled for public auction) is accelerating. Indeed, in New York City, the foreclosure crisis appears to have already turned the corner, with 2014 results showing year-over-year decreases in both lis pendens filings and notices of sale compared to 2013. In the rest of the State, lis pendens filings grew by only 1.3 percent from 2013 to 2014, while notices of sale grew by 78 percent.[9]

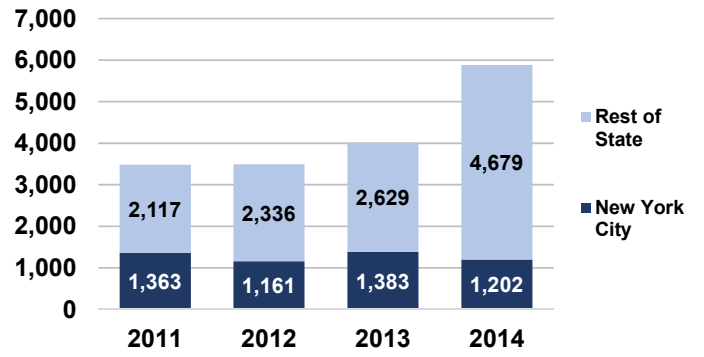
Another encouraging sign is that a number of State governmental entities—including the Unified Court System, the Department of Financial Services and the Attorney General—are making efforts to resolve cases that have become stalled, to monitor properties with delinquent mortgages and to return vacant abandoned properties to productive use. The courts are modifying their processes to reduce the number of settlement conference appearances per foreclosure case and speed up the foreclosure process.[10] The Department of Financial Services (DFS) has studied the foreclosure process and made recommendations for legislative and administrative reforms to streamline the process.[11] DFS is also developing a registry of vacant and abandoned properties and will share the information with local officials.[12] The New York State Attorney General has awarded nearly $33 million to land banks across the State. The land banks will use the funds to combat blight by a variety of means, including demolishing vacant and abandoned homes, renovating and reselling properties, and supporting other development activities.[13]

**Figure 5.**

**Activity at the Beginning of the Foreclosure Process Is Starting to Slow...**
Lis Pendens Filings, 2011 to 2014




**While Activity at the End of the Foreclosure Process Is Starting to Speed Up**
Notices of Sale, 2011 to 2014




Source: Renwood RealtyTrac.
A lis pendens filing is a pre-foreclosure action in which the lender files notification of a pending lawsuit. A notice of sale is notification that the property has been scheduled for public auction.

## Appendix.
## County-Level Foreclosure Data

| County | Pending Foreclosure Cases at Beginning of Year (Court Term 1) | | | Percentage Change 2014 to 2015 | Pending Foreclosure Case Trend, 2013 to 2015, High and Low Marked | Foreclosure Rate: Pending Foreclosures as Percentage of Housing Units | Total Housing Units for Every One Foreclosure Case |
|---|---|---|---|---|---|---|---|
| | 2013 | 2014 | 2015 | | | | |
| **Capital District** | | | | | | | |
| Albany | 757 | 1,062 | 1,241 | 16.9% | | 0.90% | 111 |
| Columbia | 229 | 296 | 313 | 5.7% | | 0.96% | 104 |
| Greene | 159 | 247 | 326 | 32.0% | | 1.12% | 89 |
| Rensselaer | 571 | 872 | 867 | -0.6% | | 1.21% | 82 |
| Saratoga | 769 | 923 | 948 | 2.7% | | 0.95% | 105 |
| Schenectady | 937 | 1,207 | 1,239 | 2.7% | | 1.82% | 55 |
| Warren | 286 | 318 | 389 | 22.3% | | 1.00% | 100 |
| Washington | 277 | 403 | 393 | -2.5% | | 1.36% | 73 |
| **Capital District Total** | **3,985** | **5,328** | **5,716** | **7.3%** | | **1.13%** | **89** |
| **Central New York** | | | | | | | |
| Cayuga | 101 | 209 | 197 | -5.7% | | 0.54% | 185 |
| Cortland | 124 | 153 | 166 | 8.5% | | 0.81% | 123 |
| Madison | 231 | 233 | 277 | 18.9% | | 0.87% | 114 |
| Onondaga | 842 | 1,398 | 1,629 | 16.5% | | 0.80% | 125 |
| Oswego | 183 | 277 | 359 | 29.6% | | 0.67% | 149 |
| **Central New York Total** | **1,481** | **2,270** | **2,628** | **15.8%** | | **0.76%** | **131** |
| **Finger Lakes** | | | | | | | |
| Genesee | 152 | 181 | 173 | -4.4% | | 0.68% | 147 |
| Livingston | 133 | 199 | 191 | -4.0% | | 0.70% | 142 |
| Monroe | 1,379 | 2,370 | 2,622 | 10.6% | | 0.82% | 122 |
| Ontario | 138 | 259 | 254 | -1.9% | | 0.53% | 190 |
| Orleans | 149 | 190 | 162 | -14.7% | | 0.88% | 113 |
| Seneca | 50 | 72 | 79 | 9.7% | | 0.49% | 203 |
| Wayne | 206 | 317 | 307 | -3.2% | | 0.75% | 133 |
| Wyoming | 78 | 93 | 66 | -29.0% | | 0.37% | 271 |
| Yates | 37 | 59 | 44 | -25.4% | | 0.33% | 306 |
| **Finger Lakes Total** | **2,322** | **3,740** | **3,898** | **4.2%** | | **0.74%** | **135** |
| **Long Island** | | | | | | | |
| Nassau | 6,374 | 9,729 | 11,554 | 18.8% | | 2.47% | 40 |
| Suffolk | 12,313 | 16,227 | 16,046 | -1.1% | | 2.82% | 35 |
| **Long Island Total** | **18,687** | **25,956** | **27,600** | **6.3%** | | **2.66%** | **38** |
| **Mid-Hudson** | | | | | | | |
| Dutchess | 922 | 1,624 | 1,705 | 5.0% | | 1.44% | 70 |
| Orange | 881 | 1,792 | 2,302 | 28.5% | | 1.67% | 60 |
| Putnam | 297 | 697 | 800 | 14.8% | | 2.10% | 48 |
| Rockland | 1,093 | 1,924 | 2,356 | 22.5% | | 2.26% | 44 |
| Sullivan | 507 | 718 | 800 | 11.4% | | 1.62% | 62 |
| Ulster | 680 | 1,013 | 1,285 | 26.9% | | 1.54% | 65 |
| Westchester | 2,030 | 3,574 | 4,137 | 15.8% | | 1.12% | 89 |
| **Mid-Hudson Total** | **6,410** | **11,342** | **13,385** | **18.0%** | | **1.49%** | **67** |

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|---|---|---|---|---|---|---|---|
| | 2013 | 2014 | 2015 | | | | |
| **Mohawk Valley** | | | | | | | |
| Fulton | 288 | 389 | 445 | 14.4% | | 1.56% | 64 |
| Hamilton | NA | NA | NA | NA | | NA | NA |
| Herkimer | 136 | 187 | 216 | 15.5% | | 0.65% | 154 |
| Montgomery | 280 | 390 | 435 | 11.5% | | 1.88% | 53 |
| Oneida | 441 | 657 | 649 | -1.2% | | 0.62% | 160 |
| Schoharie | 89 | 137 | 177 | 29.2% | | 1.03% | 97 |
| **Mohawk Valley Total** | **1,234** | **1,760** | **1,922** | **9.2%** | | **0.89%** | **112** |
| **North Country** | | | | | | | |
| Clinton | 552 | 644 | 624 | -3.1% | | 1.74% | 57 |
| Essex | 167 | 183 | 244 | 33.3% | | 0.96% | 105 |
| Franklin | 68 | 123 | 120 | -2.4% | | 0.48% | 210 |
| Jefferson | 154 | 206 | 243 | 18.0% | | 0.42% | 239 |
| Lewis | 26 | 48 | 51 | 6.3% | | 0.34% | 297 |
| Saint Lawrence | 100 | 154 | 174 | 13.0% | | 0.33% | 299 |
| **North Country Total** | **1,067** | **1,358** | **1,456** | **7.2%** | | **0.69%** | **145** |
| **New York City** | | | | | | | |
| Bronx | 3,903 | 4,563 | 4,924 | 7.9% | | 0.96% | 104 |
| Kings | 13,853 | 11,240 | 11,402 | 1.4% | | 1.14% | 88 |
| New York | 881 | 898 | 814 | -9.4% | | 0.10% | 1043 |
| Queens | 12,497 | 12,421 | 10,667 | -14.1% | | 1.27% | 79 |
| Richmond | 1,100 | 1,619 | 1,360 | -16.0% | | 0.77% | 130 |
| **New York City Total** | **32,234** | **30,741** | **29,167** | **-5.1%** | | **0.86%** | **116** |
| **Southern Tier** | | | | | | | |
| Broome | 590 | 675 | 694 | 2.8% | | 0.77% | 130 |
| Chemung | 212 | 173 | 207 | 19.7% | | 0.54% | 185 |
| Chenango | 165 | 196 | 194 | -1.0% | | 0.79% | 127 |
| Delaware | 171 | 210 | 232 | 10.5% | | 0.75% | 134 |
| Otsego | 326 | 330 | 377 | 14.2% | | 1.23% | 81 |
| Schuyler | 21 | 29 | 15 | -48.3% | | 0.16% | 630 |
| Steuben | 162 | 235 | 232 | -1.3% | | 0.48% | 210 |
| Tioga | 113 | 124 | 134 | 8.1% | | 0.61% | 165 |
| Tompkins | 81 | 94 | 81 | -13.8% | | 0.19% | 515 |
| **Southern Tier Total** | **1,841** | **2,066** | **2,166** | **4.8%** | | **0.64%** | **156** |
| **Western New York** | | | | | | | |
| Allegany | 81 | 109 | 100 | -8.3% | | 0.38% | 260 |
| Cattaraugus | 233 | 299 | 225 | -24.7% | | 0.55% | 182 |
| Chautauqua | 475 | 535 | 380 | -29.0% | | 0.57% | 176 |
| Erie | 1,597 | 2,362 | 2,493 | 5.5% | | 0.59% | 168 |
| Niagara | 536 | 714 | 792 | 10.9% | | 0.80% | 125 |
| **Western New York Total** | **2,922** | **4,019** | **3,990** | **-0.7%** | | **0.61%** | **164** |
| **Grand Total** | **72,183** | **88,580** | **91,928** | **3.8%** | | **1.13%** | **88** |

Source: New York State Unified Court System and U.S. Census Bureau with OSC calculations. Foreclosure data is not available for Hamilton County. Pending foreclosure counts are based on snapshot data from Term 1 of the court calendar (which covers most of the month of January). Census data on the number of housing units is from the American Community Survey (five-year estimates with the most recent data from 2013). Foreclosure cases include both residential and nonresidential properties, and so the "foreclosure rate" and "total housing units for every one foreclosure case" metrics are intended to convey an approximate sense of the relative prevalence of properties in foreclosure.

[1] Office of the State Comptroller (OSC), *Cleaning it up: The Foreclosure Problem and the Response of Local Governments* (March 2012). Available at: **www.osc.state.ny.us/localgov/pubs/research/foreclosure.pdf**.

[2] "Governor Cuomo Announces Major Mortgage Companies Agree to Measures to Combat Vacant Abandoned 'Zombie Properties,'" Governor Andrew Cuomo press release, May 18, 2015, **www.governor.ny.gov/news/governor-cuomo-announces-major-mortgage-companies-agree-measures-combat-vacant-abandoned-zombie**, accessed June 3, 2015.

[3] New York State Unified Court System, *2014 Report of the Chief Administrator of the Courts*, p. 3.

[4] New York State Unified Court System, *2012 Report of the Chief Administrator of the Courts*, pp. 1-2.

[5] Data from the New York State Unified Court System. Data is as of Term 1 of the annual court calendar (corresponding roughly to the month of January). See the appendix for county-level data on pending foreclosures organized by region. County-level data on pending foreclosures prior to 2013 is not available.

[6] Foreclosure figures include both residential and nonresidential properties. A property may have more than one than foreclosure case against it (if it has more than one delinquent loan). Also, a single foreclosure case may involve properties with multiple housing units. Housing unit data is from the Bureau of the Census (American Community Survey, five-year estimates, with most recent data from 2013). Consequently, the foreclosure rate is not an exact figure, but rather provides an estimate of the relative scale of the foreclosure problem in different areas of the State. New York City is atypical because it has a much greater proportion of multi-family residential properties than other regions of the State.

[7] OSC, *Upstate/Downstate: New York's Diverging Housing Market* (June 2010). Available at: **www.osc.state.ny.us/localgov/pubs/research/snapshot/0610snapshot.pdf**.

[8] RealtyTrac, "56 Percent of 3.3 Million HELOCs Scheduled to Reset with Higher Rates in Next Four Years are on Underwater Homes (March 2015)," available at: **www.realtytrac.com/news/mortgage-and-finance/heloc-resets-report/**.

[9] Data from Renwood RealtyTrac. These data do not include all foreclosure resolutions, notably settlements (where a foreclosure is avoided by settlement between the lender and borrower) and dismissals. If a property fails to sell at auction, the title is typically transferred to the lender.

[10] The efforts of the courts are discussed in the annual *Report of the Chief Administrator of the Courts: Pursuant to Chapter 507 of the Laws of 2009*, available at: **www.nycourts.gov/publications/index.shtml#Foreclosure**.

[11] New York State Department of Financial Services, *Report on New York's Foreclosure Process* (May 2015), available at: **www.dfs.ny.gov/reportpub/fore_proc_report_052015.pdf**.

[12] "Governor Cuomo Announces Major Mortgage Companies Agree to Measures," op. cit.

[13] "A.G. Schneiderman Awards $20 Million to Land Banks Across New York State," New York State Attorney General's Office, Press Release, October 15, 2014.

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