

# OFFICE OF THE COMMISSION AUDITOR

## MIAMI-DADE BOARD OF COUNTY COMMISSIONERS

### MIAMI-DADE COUNTY FORECLOSURES REPORT



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**Report produced by the Office of the Commission Auditor**

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**The Office of the Commission Auditor, Miami-Dade Board of County Commissioners**

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary, and operational issues before the Miami-Dade Board of County Commissioners (BCC). The Commission Auditor's duties include reporting to the BCC on the fiscal operations of County departments, as well as whether or not the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented.

This report, prepared in collaboration with the Miami-Dade County department(s) as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on the objectives; accordingly, OCA does not express an opinion on the data gathered by the subject matter expert(s).

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## **I. INTRODUCTION**

### **a. Purpose**

The Office of the Commission Auditor (OCA) produced this report on countywide foreclosures data as required by Miami-Dade BCC Resolution No. R-468-21, which was adopted on May 4, 2021. Pursuant to the resolution, OCA shall provide the BCC monthly reports on countywide foreclosure statistics to assist the BCC as policymakers in establishing metrics to devise a macro solution to the foreclosure crisis resulting from the COVID-19 pandemic. The resolution also requires the report to be shared with the Miami-Dade County Homeless Trust.

### **b. Scope**

In this initial report, OCA reports on both residential and commercial foreclosures data from January 1, 2018 to April 30, 2021 with a focus on March 1, 2020 to April 30, 2021 data, depicting trends on the quantity of cases filed and pending as well as the number of final judgments issued, and foreclosure sales occurring during the COVID-19 pandemic. Certain data limitations existed. Primarily, the Odyssey Case Manager, the Clerk of Court's case management system capturing foreclosure cases, does not capture the address of the property subject to foreclosure. Therefore, while Section 3(i) of Resolution No. R-468-21 directs OCA to report, if practicable, on the location by zip code of each residential and commercial property that is or was subject to a foreclosure action, these data limitations preclude OCA from doing so.

### **c. Methodology**

OCA collaborated with the Clerk of the Courts (COC) to obtain detailed data on foreclosure cases throughout the County, including the property type, amount of each foreclosure action or judgment, the disposition of each case, foreclosure sale information, homestead exempt status, and courts of jurisdiction. The information collected was reviewed and vetted to aid the BCC in establishing accurate quantitative and qualitative macro data; this included quality review meetings with the COC to ensure consistency of data interpretation and resolution of any anomalies.

## **II. BACKGROUND**

### **a. COVID-19 Foreclosures Moratorium**

In Florida, the Governor's Executive Order 20-94, signed April 2, 2020, suspended eviction of residential tenants for non-payment of rent due to being adversely affected by COVID-19, as well as suspended and tolled any statute providing for a mortgage foreclosure cause of action under Florida law for 45 days from the effective date. The Executive Order was subsequently extended by Executive Orders 20-121, 20-137, 20-159 until August 1, 2020. On July 30, 2020, Executive Order 20-180 was issued, providing an extension and clarification to previous foreclosure and eviction moratorium orders, suspending final action at the conclusion of a mortgage foreclosure proceeding under Florida law solely when the proceeding arises from nonpayment of mortgage by a single-family mortgagor adversely affected by the COVID-19 emergency, as well as suspending final action in non-payment eviction cases where the non-payment is the result of the residential tenant being adversely affected by COVID-19.<sup>1</sup> "Adversely affected by the COVID-19 emergency" is defined in the Order as a loss of employment, loss of hours or income, or other monetary loss due to COVID-19. The Order was effective until September 1, 2020 and extended by Executive Order 20-211 until 12:01 am on October 1, 2020.

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<sup>1</sup> Executive Order No. 20-180, Office of the Governor, State of Florida, Limited Extension of Mortgage Foreclosure and Eviction Relief, [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-180.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-180.pdf).



At the federal level, the Department of Housing and Urban Development (HUD) published Mortgagee Letter (ML) 2020-04 on March 18, 2020, authorizing the Federal Housing Administration (FHA) to implement an immediate foreclosure and eviction moratorium for FHA-insured single-family mortgages. This moratorium for all FHA-insured mortgages, except those secured by vacant or abandoned properties, was subsequently extended by ML 2020-13, ML-2020-19, ML 2020-27, ML 2020-43, 2021-03, and 2021-05 until June 30, 2021. FHA has active insurance on over 8 million single-family mortgages.<sup>2</sup>

Also on March 18, 2020, the Federal Housing Finance Agency (FHFA) directed Fannie Mae and Freddie Mac to suspend foreclosures and evictions for single family mortgages backed by Fannie Mae and Freddie Mac for at least 60 days due to the COVID-19 emergency. The moratorium has since been extended several times and is currently slated to expire on June 30, 2021. More than 28 million homeowners have a mortgage backed by Fannie Mae or Freddie Mac.<sup>3</sup>

#### **b. Foreclosure Process**

The forthcoming data analysis highlights action taken at various points in the foreclosure process: case filing, final judgment, and foreclosure sale. Figure 1 depicts the foreclosure process in Miami-Dade County, in accordance with Sections 45.031 to 45.035 and 702.015 to 702.12 Florida Statutes, as well as the Florida Rules of Civil Procedure. Note that the plaintiff's filing of bankruptcy in a foreclosure action can stay the foreclosure proceeding at any point in the outlined foreclosure process.

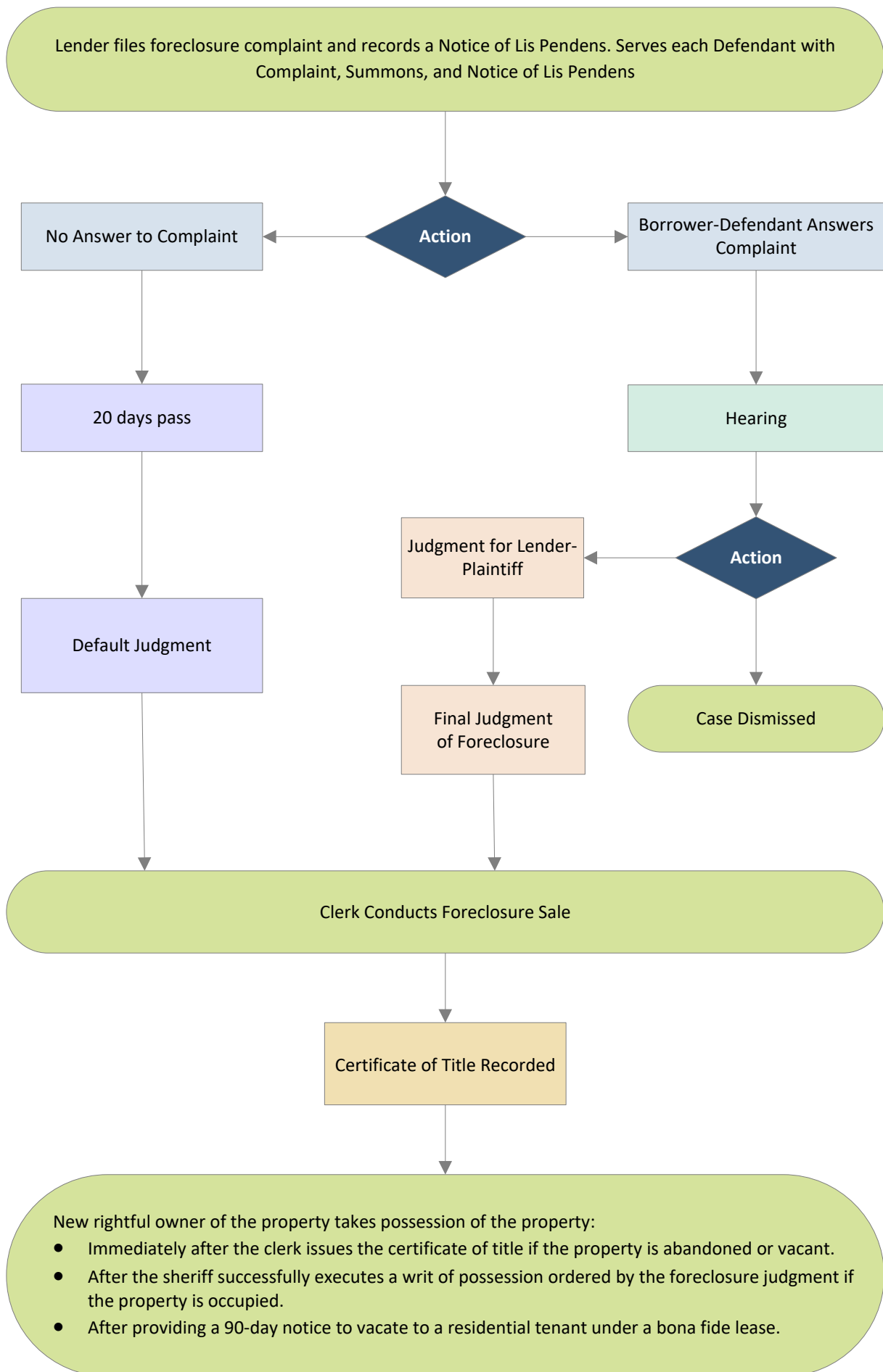
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<sup>2</sup> U.S. Department of Housing and Urban Development, The Federal Housing Administration (FHA), [https://www.hud.gov/program\\_offices/housing/fhahistory#:~:text=Today%2C%20FHA%20has%20active%20insurance,portfolio%20is%20over%20%241.3%20trillion](https://www.hud.gov/program_offices/housing/fhahistory#:~:text=Today%2C%20FHA%20has%20active%20insurance,portfolio%20is%20over%20%241.3%20trillion) (last visited June 10, 2021).

<sup>3</sup> Federal Housing Finance Agency, *FHFA Extends Foreclosure and REO Eviction Moratoriums*, August 27, 2020, <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Foreclosure-and-REO-Eviction-Moratoriums.aspx>.

**Figure 1**

**Miami-Dade County Foreclosure Process**

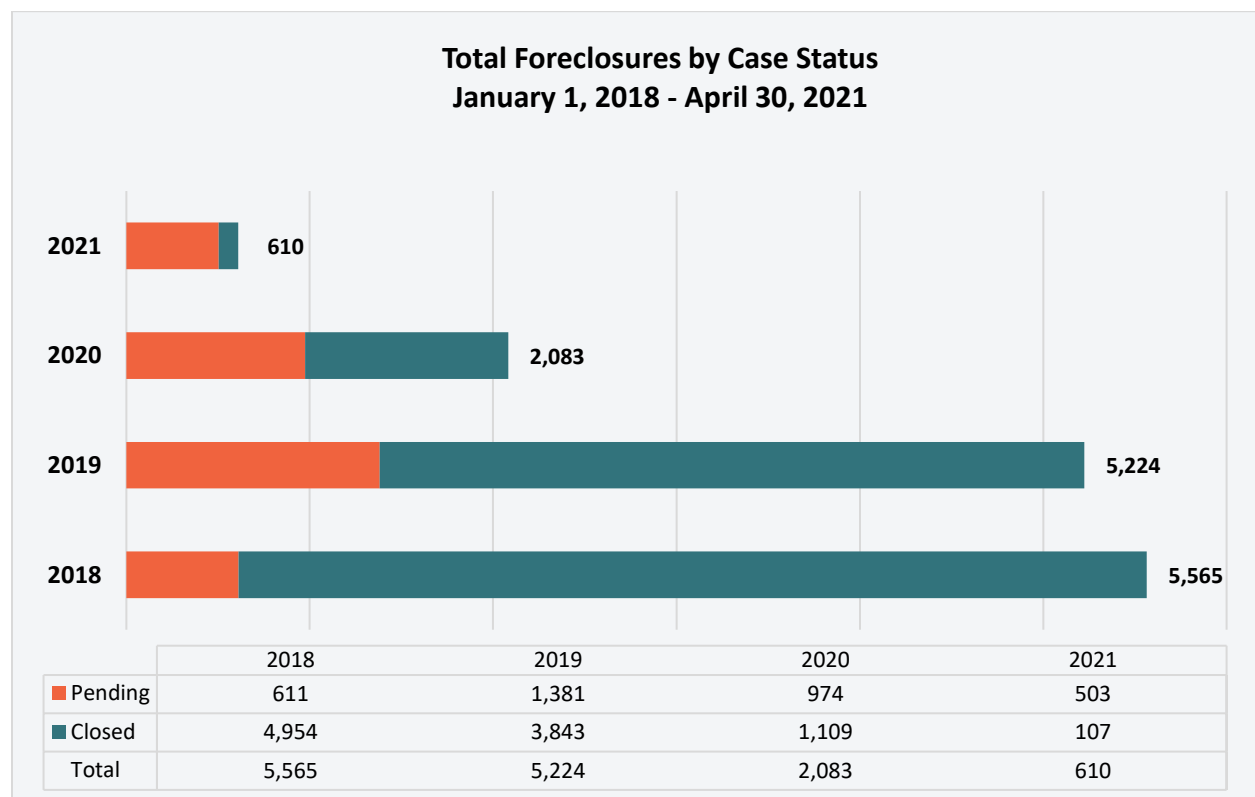


### III. FORECLOSURES DATA

#### a. Foreclosures by Year

To allow for comparison of foreclosures data, OCA collected data on foreclosure cases filed since January 1, 2018 through April 30, 2021. Figures 2 and 3 depict a historical view of foreclosure cases filed from January 1, 2018 through April 30, 2021 by calendar year. Figure 2 shows foreclosure case totals by case status (pending or closed as of April 30, 2021), and Figure 3 details foreclosure case totals by property type (residential or commercial). Note that foreclosure case filing totals for 2018, 2019 and 2020 in the below figures are for full calendar years while foreclosure case filing totals for 2021 are for a partial calendar year (January 1, 2021 to April 30, 2021).

*Figure 2*



Source: Odyssey Case Manager (COC)

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*Figure 3*

Total Foreclosure Cases by Property Type January 1, 2018 - April 30, 2021					
	2018	2019	2020	2021	Total
Residential	5,433	5,076	1,927	538	12,974
Commercial	132	148	156	72	508
<b>Total</b>	<b>5,565</b>	<b>5,224</b>	<b>2,083</b>	<b>610</b>	<b>13,482</b>

Source: Odyssey Case Manager (COC)

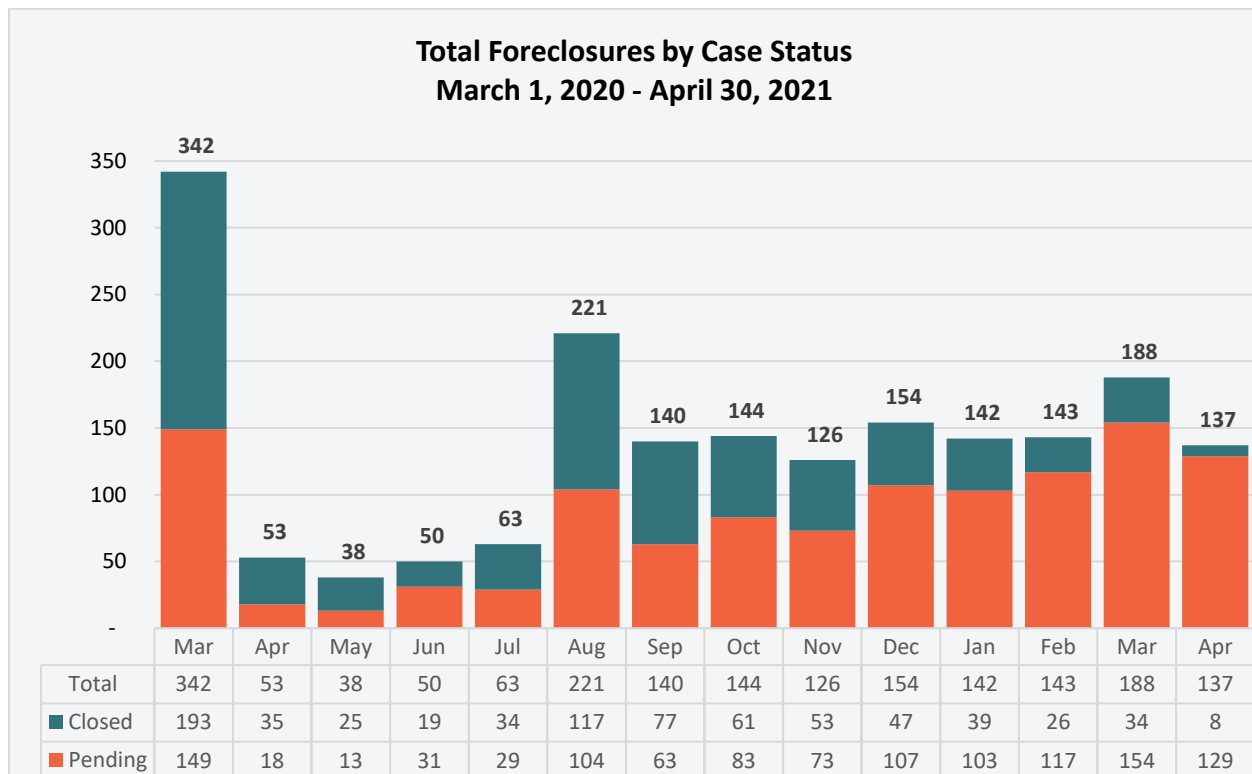
Office of the Commission Auditor

**b. Foreclosures by Property Type (Residential or Commercial)**

Section 3(a) of BCC Resolution No. R-468-21 directs OCA to report on the total number of pending residential and commercial foreclosures that were filed on or after March 1, 2020—the date the State Health Officer and Surgeon General declared a Public Health Emergency due to the discovery of COVID-19 in Florida.<sup>4</sup> There were 1,941 residential and commercial foreclosures filed on or after March 1, 2020 through April 30, 2021.<sup>5</sup> Of these, 1,173 are pending cases.<sup>6</sup>

Figure 4 depicts totals of foreclosure cases by case status (pending or closed) for each month from March 2020 through April 2021.

*Figure 4*



Source: Odyssey Case Manager (COC)

Office of the Commission Auditor

<sup>4</sup> Exec. Order No. 20-51, State of Florida, Office of the Governor, [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-51.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-51.pdf).

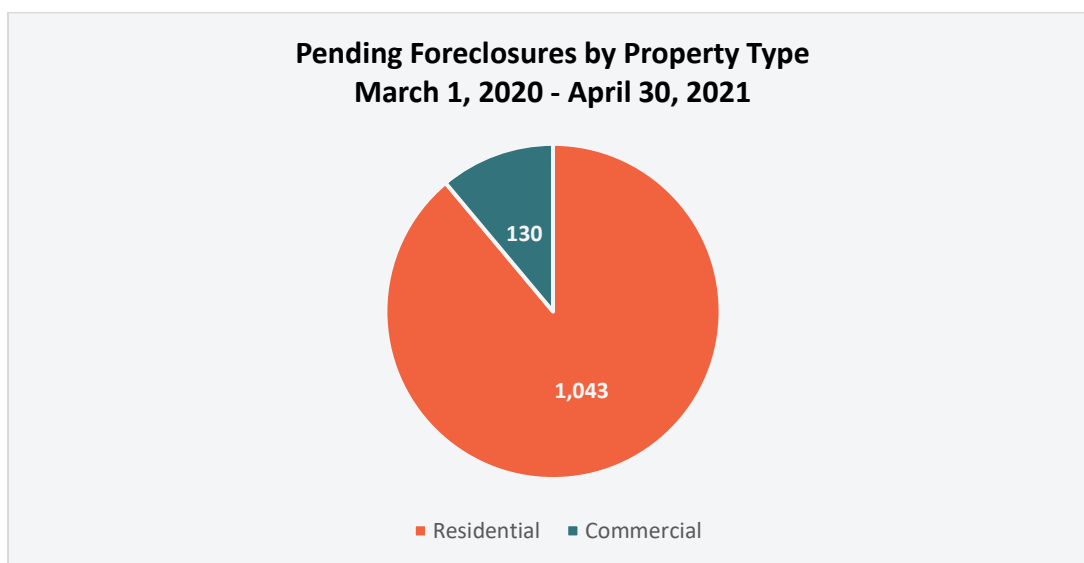
<sup>5</sup> The “residential” property type includes properties listed as “unknown”. The cases within the unknown category are county court foreclosure cases, typically related to nonpayment of association fees.

<sup>6</sup> “Pending” foreclosure cases include open foreclosure cases (both active and inactive), i.e., foreclosure cases without a disposition, and reopened cases (both active and inactive), i.e., cases with outstanding post-judgment court action. A foreclosure case is *inactive* when court activity is suspended pending resolution of an issue external to the court or an issue that does not directly involve the court in resolving that issue. Examples of events that would move a case from *active* to *inactive* status are: 1) ongoing settlement negotiations or written agreement by both parties; 2) bankruptcy stay; 3) case pending resolution of another case; 4) appeal pending or 4) motion to stay or abate due to Department of Justice/Attorney General settlement.

Sections 3(b) and 3(c) of Resolution No. R-468-21 direct OCA to report on the total number of pending residential foreclosures and the total number of commercial foreclosures that were filed after April 2, 2020—the date the Governor of Florida issued Executive Order No. 20-94 providing for a foreclosure moratorium. There were 894 pending residential foreclosures and 187 total commercial foreclosures filed from April 3, 2020 through April 30, 2021.

The total of pending foreclosure cases (filed on or after March 1, 2020 through April 30, 2021) by property type is illustrated below in Figure 5.

*Figure 5*



Source: Odyssey Case Manager (COC)

*Office of the Commission Auditor*

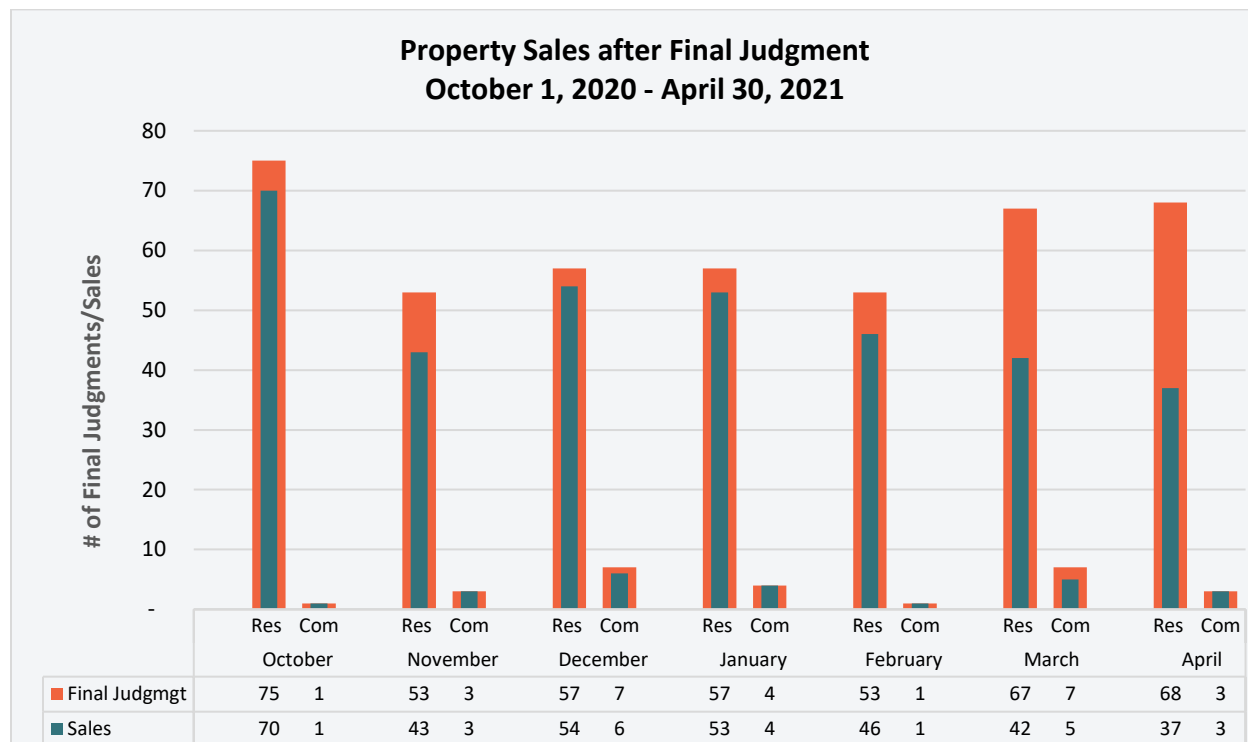
### **c. Final Judgments and Foreclosure Sales**

Section 3(d) of Resolution No. R-468-21 directs OCA to report on the total number of residential and commercial foreclosure cases that resulted in the court issuing final judgments after the expiration of the Governor's Executive Order 20-180 (12:01 a.m. on October 1, 2020). From October 1, 2020 through April 30, 2021, there were 456 final judgments issued in residential and commercial foreclosure cases. Of these final judgments, 430 were issued in residential foreclosure cases, and 26 were issued in commercial foreclosure cases.

Section 3(e) of the resolution directs OCA to report on the total number of residential and commercial foreclosure sales of properties after court-issued final judgments. From March 1, 2020 through April 30, 2021 there were 550 foreclosure sales of properties pursuant to final judgments issued by the court. Of these foreclosure sales, 509 were for foreclosed residential properties and 41 were for foreclosed commercial properties. Note that the Odyssey Case Manager reflects a foreclosure sale on a case when there is an effective sale date and does not account for instances when the sale was prevented after the sale date was set due to actions on the case, e.g., settlement, bankruptcy filing, etc.

Figure 6 depicts the number of foreclosure cases (filed from October 1, 2020 to April 30, 2021) resulting in final judgment, and the number of cases during this period where the Odyssey Case Manager reports a foreclosure sale, by month and property type.

*Figure 6*



Source: Odyssey Case Manager (COC)

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#### **d. Homestead Exemptions**

Section 3(f) and 3(g) of Resolution No. R-468-21 directs OCA to report on the total number of foreclosed residential properties that are homestead exempt, and the number of foreclosed residential properties that are not homestead exempt. Of the 1,745 residential foreclosure cases filed from March 1, 2020 to April 30, 2021, 769 were cases where the subject property was homestead exempt, 847 were cases where the subject property was not homestead exempt, and 129 were cases where the case type was listed as *Mortgage/Real Property Foreclosure*. According to the COC, cases listed as *Mortgage/Real Property Foreclosure* are typically foreclosures related to nonpayment of association fees.

#### **e. Courts of Jurisdiction**

Section 3(h) of Resolution No. R-468-21 directs OCA to report on the courts of jurisdiction where each residential or commercial foreclosure action is or was filed, i.e., county court or circuit court. The County Civil Division has jurisdiction over civil cases up to \$30,000, while the Circuit Civil Division hears cases with damages in excess of \$30,000. According to the COC, the foreclosure matters heard in county court are primarily cases involving nonpayment of homeowner association fees. From March 1, 2020 to April 30, 2021, there were 129 foreclosure cases filed in county court, and 1,812 foreclosure cases filed in circuit court.

**f. Foreclosures by Location**

Section 3(i) of Resolution No. R-468-21 directs OCA to report on, if practicable, the location by zip code of each residential and commercial property that is or was subject to a foreclosure action. The Odyssey Case Manager does not capture the address of the property subject to foreclosure as this is not a required field when e-filing a foreclosure case in the Florida Courts E-Filing Portal. Therefore, the data provided to OCA by COC does not provide the address of the property subject to foreclosure.

**g. Foreclosures by Value**

Section 3(j) of Resolution No. R-468-21 directs OCA to report on the dollar amounts of each foreclosure action or judgment, i.e., \$0.00 to \$50,000.00, \$50,000.00 to \$250,000.00, and over \$250,000.00. This information is displayed below in Figure 7 for cases where a final judgment was entered on or after March 1, 2020 through April 30, 2021. Note that entry of the judgment amount was not a requirement until October 1, 2020; provision of this information was optional prior to this date according to the COC. Of the 2,678 foreclosure cases where the foreclosure judgment amount was in the \$0.00 to \$50,000.00 range, 2,628 were foreclosure cases where the judgment amount was reported as \$0.00.

*Figure 7*

<b>Foreclosure Cases by Foreclosure Judgment Amount</b>	
<b>March 1, 2020 - April 30, 2021</b>	
<b>Judgment Range</b>	<b>Total</b>
<b>\$0.00 - \$50,000</b>	<b>2,678</b>
<b>\$50,001 - \$250,000</b>	<b>227</b>
<b>&gt; \$250,000</b>	<b>376</b>
<b>Total</b>	<b>3,281</b>

Source: Odyssey Case Manager (COC) *Office of the Commission Auditor*

Section 3(k) of the resolution directs OCA to report on the amount of the purchase price if a foreclosed property was sold at a foreclosure sale. The final amount at which the property was sold at a foreclosure sale is captured as the *bid amount* by the Odyssey Case Manager. Information on the bid amounts of foreclosure cases where a final judgment was entered from March 1, 2020 to April 30, 2021 is detailed below in Figure 8. Note that OCA reviewed 558 cases where the bid amount was listed as \$0.00. The COC reports that these records with \$0.00 bid amounts reflect instances where the foreclosure sale was not completed.

**Figure 8**

<b>Foreclosure Cases by Bid Amount March 1, 2020 - April 30, 2021</b>	
<b>Bid Range</b>	<b>Total</b>
<b>\$0.00</b>	<b>558</b>
<b>\$0.01 - \$25,000</b>	<b>27</b>
<b>\$25,001 - \$75,000</b>	<b>21</b>
<b>\$75,001 - \$175,000</b>	<b>79</b>
<b>\$175,001 - \$375,000</b>	<b>151</b>
<b>\$375,001 - \$750,000</b>	<b>45</b>
<b>&gt; \$750,000</b>	<b>19</b>
<b>Total</b>	<b>900</b>

**Source: Odyssey Case Manager (COC)    Office of the Commission Auditor**

#### **IV. REPORT SUMMARY**

As required by Resolution No. R-468-21, the following was addressed in this report:

- (a) There were 1,941 residential and commercial foreclosures filed on or after March 1, 2020 through April 30, 2021. Of these, 1,173 are pending cases.
- (b) There were 1,399 residential foreclosure filed from April 3, 2020 through April 30, 2021. Of these, 984 are pending (open and reopened, including inactive) cases.
- (c) The number of commercial foreclosures filed from April 3, 2020 through April 30, 2021 is 187, of which 126 are pending.
- (d) From October 1, 2020 through April 30, 2021, there were 456 final judgments issued in residential and commercial foreclosure cases. Of these final judgments, 430 were issued in residential foreclosure cases, and 26 were issued in commercial foreclosure cases.
- (e) From March 1, 2020 through April 30, 2021 there were 550 foreclosure sales of properties pursuant to final judgments issued by the court. Of these foreclosure sales, 509 were of foreclosed residential properties and 41 were of foreclosed commercial properties.
- (f) Of the 1,745 residential foreclosure cases filed from March 1, 2020 to April 30, 2021, 769 were cases where the subject property was homestead exempt.
- (g) Of the 1,745 residential foreclosure cases filed from March 1, 2020 to April 30, 2021, 976 were cases where the subject property was not homestead exempt.



- (h) From March 1, 2020 to April 30, 2021, there were 129 foreclosure cases (residential and commercial) filed in county court, and 1,812 foreclosure cases (residential and commercial) filed in circuit court.
- (i) OCA is unable to report on the location by zip code of each residential and commercial property that is or was subject to a foreclosure action due to limitations of the Odyssey Case Manager, the Clerk of Court's case management system capturing foreclosure cases. Specifically, the Odyssey Case Manager does not capture the address of the property subject to foreclosure.
- (j) From March 1, 2020 through April 30, 2021, there were 2,678 foreclosure judgments in the \$0.00 to \$50,000.00 monetary category, 227 in the \$50,000.00 to \$250,000.00 monetary category, and 376 in the over \$250,000.00 monetary category. Of the 2,678 foreclosure cases where the judgment amount was in the \$0.00 to \$50,000.00 range, 2,628 were foreclosure cases where the judgment amount was \$0.00.
- (k) From March 1, 2020 through April 30, 2021, there were 558 foreclosure sales where the bid amount was \$0.00 due to the foreclosure sale not being completed. There were 127 foreclosure sales where the bid amount was in the \$0.01 to \$175,000 range, and 215 where the bid amount was above \$175,000.