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GMAC's Errors Leave Foreclosures in Question

By **DAVID STREITFELD**

The recent admission by a major mortgage lender that it had filed dubious foreclosure documents is likely to fuel a furor against hasty foreclosures, which have prompted complaints nationwide since housing prices collapsed.

Lawyers for distressed homeowners and law enforcement officials in several states on Friday seized on revelations by **GMAC Mortgage**, the country's fourth-largest home loan lender, that it had violated legal rules in its rush to file many foreclosures as quickly as possible.

Attorneys general in Iowa and North Carolina said they were beginning separate investigations of the lender, and the attorney general in California directed the company to suspend all foreclosures in that state until it "proves that it's following the letter of the law."

The federal government, which became the majority owner of GMAC after supplying \$17 billion to prevent the lender's failure, said Friday that it had told the company to clean up its act.

Florida lawyers representing borrowers in default said they would start filing motions as early as next week to have hundreds of foreclosure actions dismissed.

While GMAC is the first big lender to publicly acknowledge that its practices might have been improper, defense lawyers and consumer advocates have long argued that numerous lenders have used inaccurate or incomplete documents to remove delinquent owners from their houses.

The issue has broad consequences for the millions of buyers of foreclosed homes, some of whom might not have clear title to their bargain property. And it may offer unforeseen opportunities for those who were evicted.

“You know those billboards that lawyers put up seeking divorcing or bankrupt clients?” asked Greg Clark, a Florida real estate lawyer. “It’s only a matter of time until they start putting up signs that say, ‘You might be entitled to cash payment for wrongful foreclosure.’ ”

The furor has already begun in Florida, which is one of the 23 states where foreclosures must be approved by courts. Nearly half a million foreclosures are in the Florida courts, overwhelming the system.

J. Thomas McGrady, chief judge in the foreclosure hotbed of St. Petersburg, said the problems went far beyond GMAC. Four major law firms doing foreclosures for lenders are under investigation by the Florida attorney general.

“Some of what the lenders are submitting in court is incompetent, some is just sloppy,” said Judge McGrady of the Sixth Judicial Circuit in Clearwater, Fla. “And somewhere in there could be a fraudulent element.”

In many cases, the defaulting homeowners do not hire lawyers, making problems generated by the lenders hard to detect.

“Documents are submitted, and there’s no one to really contest whether it is accurate or not,” the judge said. “We have an affidavit that says it is, so we rely on that. But then later we may find out that someone lost their home when they shouldn’t have. We don’t like that.”

GMAC, which is based in Detroit and is now a subsidiary of Ally Financial, first put the spotlight on its procedures when it told real estate agents and brokers last week that it was immediately and indefinitely stopping all evictions and sales of foreclosed property in the states — generally on the East Coast and in the Midwest — where foreclosures must be approved by courts.

That was a highly unusual move. So was the lender’s simultaneous withdrawal of important affidavits in pending cases. The affidavits were sworn statements by GMAC officials that they had personal knowledge of the foreclosure documents.

The company played down its actions, saying the defects in its foreclosure filings were “technical.” It has declined to say how many cases might be affected.

A GMAC spokeswoman also declined to say Friday whether the company would stop foreclosures in California as the attorney general, Jerry Brown, demanded. Foreclosures in California are not judicial.

GMAC’s vague explanations have been little comfort to some states.

"We cannot allow companies to systematically flout the rules of civil procedure," said one of Iowa's assistant attorneys general, Patrick Madigan. "They're either going to have to hire more people or the foreclosure process is going to have to slow down."

GMAC began as the auto financing arm of **General Motors**. During the housing boom, it made a heavy bet on subprime borrowers, giving loans to many people who could not afford a house.

"We have discussed the current situation with GMAC and expect them to take prompt action to correct any errors," said Mark Paustenbach, a spokesman for the Treasury Department.

GMAC appears to have been forced to reveal its problems in the wake of several depositions given by Jeffrey Stephan, the team leader of the document execution unit in the lender's Fort Washington, Pa., offices.

Mr. Stephan, 41, said in one deposition that he signed as many as 10,000 affidavits and other foreclosure documents a month; in another he said it was 6,000 to 8,000.

The affidavits state that Mr. Stephan, in his capacity as limited signing officer for GMAC, had examined "all books, records and documents" involved in the foreclosure and that he had "personal knowledge" of the relevant facts.

In the depositions, Mr. Stephan said he did not do this.

In a June deposition, a lawyer representing a foreclosed household put it directly: "So other than the due date and the balances due, is it correct that you do not know whether any other part of the affidavit that you sign is true?"

"That could be correct," Mr. Stephan replied.

Mr. Stephan also said in depositions that his signature had not been notarized when he wrote it, but only later, or even the next day.

GMAC said Mr. Stephan was not available for an interview. The lender said its "failures" did not "reflect any disrespect for our courts or the judicial processes."

Margery Golant, a Boca Raton, Fla., foreclosure defense lawyer, said GMAC "has cracked open the door."

"Judges used to look at us strangely when we tried to tell them all these major financial institutions are lying," said Ms. Golant, a former associate general counsel for the lender **Ocwen Financial**.

Her assistants were reviewing all of the law firm's cases Friday to see whether GMAC had been involved. "Lawyers all over Florida and I'm sure all over the country are drafting pleadings," she said. "We'll file motions for sanctions and motions to dismiss the case for fraud on the court."

For homeowners in foreclosure, the admissions by GMAC are bringing hope for resolution.

One such homeowner is John Turner, a commercial airline pilot based near Detroit. Three years ago he bought a Florida condo, thinking he would move down there with a girlfriend. The relationship fizzled, his finances dwindled, and the place went into foreclosure.

GMAC called several times a week, seeking its \$195,000. Mr. Turner says he tried to meet the lender halfway but failed. Last week it put his case in limbo by withdrawing the affidavit.

"We should be able to come to an agreement that's beneficial to both of us," Mr. Turner said. "I feel like I'm due something."