

BUSINESS & FINANCE

Understanding the Foreclosure Debacle

By RUTH SIMON

It has been a month since GMAC Mortgage suspended sales of foreclosed homes to review its paperwork procedures. While the company has lifted the freeze, the mess it unleashed has no end in sight.

A White House financial-fraud task force, is investigating how mortgage companies handled their documents. All 50 state attorneys general are hunkering down for their related probe.

Courts are in chaos as banks cancel foreclosure hearings, review documentation for loans on houses heading for the auction block until they were detoured and replace questionable affidavits prepared by "robo-signers."

Some experts predict that the only way out is a settlement in which home-loan servicers modify the terms of billions of dollars of mortgages. The potential losses could hammer banks. Investors who bought securities created out of pools of mortgages now in trouble are worried they could be stuck footing much of the bill.

The number of foreclosures, time that borrowers typically get to stay in their home after missing loan payments and foreclosure-sale processes vary widely by U.S. state and mortgage-servicing company.

Here are some basic questions and answers:

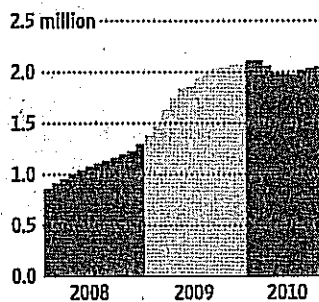
How many payments has the average borrower in foreclosure missed?

The foreclosure process typically begins no sooner than 90 days after the borrower begins missing payments. But of the 2.1 million mortgages in foreclosure at Sept. 30, the average loan is 484 days—or about 16 months—past due, according to LPS Applied Analytics. That is up 93%

Slow-Moving Mountain

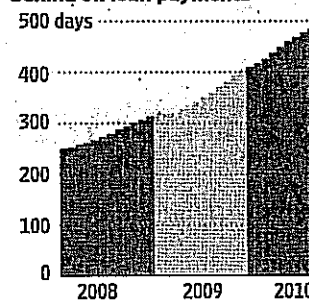
As delinquencies have climbed, foreclosures have grown but so has the amount of time borrowers spend in the foreclosure process.

Number of foreclosures



Source: LPS Applied Analytics

Average number of days that a borrower in foreclosure is behind on loan payments



from 251 days in January 2008.

In New York, the average borrower in foreclosure hasn't made a payment in roughly 20 months. The shortest foreclosure timelines occur in Nebraska and Wyoming—an average 358 days.

The process tends to move slower in 23 states where foreclosures are handled in courts. Some states and cities imposed temporary curbs to give borrowers more chances to work out a compromise with their lenders.

With so many borrowers so far behind, why did the controversy just erupt?

GMAC, a unit of Ally Financial Inc., suspended foreclosure sales one week after several Florida law firms representing lenders in GMAC-related foreclosures withdrew their cases.

The move drew scrutiny from state attorneys general, judges, lawyers representing borrowers and other mortgage servicers, who began reviewing their own foreclosure procedures.

"In a judicial foreclosure state, you are using the power of the state to take away someone's

home," says Patrick Madigan, assistant attorney general for Iowa, which is leading the nationwide review. "This is about protecting property rights and about the rule of law."

How often do lenders and servicers pursue foreclosures?

At Provident Funding Associates LP, about 2.8% of mortgages serviced by the Burlingame, Calif., company are delinquent or in foreclosure, according to Inside Mortgage Finance, an industry newsletter. That is the lowest percentage among the largest mortgage servicers.

In contrast, about 42% of loans handled by Ocwen Financial Corp., West Palm Beach, Fla., are delinquent or in foreclosure. Differences reflect "the hand they are dealt," says Guy Cecala, the newsletter's publisher. Ocwen often is called in on defaulted loans, while Provident services "the cream of the crop," he says.

A four-month probe by the Obama administration into five of the biggest mortgage servicers concluded that some are far more skilled at handling fore-

closures than others. Laurie Goodman, a senior managing director at mortgage-bond trader Amherst Securities Group in New York, says some servicing firms also "move the process along more aggressively than others."

Aren't many foreclosed-upon homes already empty?

In a conference call with analysts Tuesday, Bank of America Corp. said 33% of its foreclosures in the first eight months of this year involved vacant properties. J.P. Morgan Chase & Co. recently said 35% to 40% of homes are empty when a foreclosure sale occurs.

Some government officials and borrowers' lawyers say the figures should be viewed with caution. Some borrowers move out when they get notice their home will be sold if they don't catch up on their payments.

In addition, some mortgage companies rely on outside contractors to determine if a house is occupied or vacant. "I've had clients where someone has hung a note on the door saying they've determined the property is vacant, and it's not," says Margery Golant, a Boca Raton, Fla., lawyer for borrowers in foreclosure.

Why can't borrowers who are essentially living rent-free just get back on track?

Unpaid loan amounts typically are added to the loan balance. And with home values down sharply across much of the U.S., a ballooning balance increases the likelihood that borrowers will owe more than their homes are worth.

Many borrowers struggling to keep their homes have run into trouble due to the weak economy. Bank of America has said half of its delinquent mortgage borrowers were unemployed or had a significant loss of income.