

# Homeowners Beware: Mistaken Foreclosures are Occurring Due to Disorganization in Banks

In the continuing foreclosure crisis, millions of people are losing their homes. Disorganization within big banks that service mortgages is making a growing problem even worse. The number of cases is growing wherein the breakdown within the banking system is so absolute that it leads to mistaken and/or premature foreclosures. Many have lost their homes. Some homeowners, however, with the assistance of an attorney or housing counselor, have been able to reverse a foreclosure.

In the worst case scenario banks actually work at odds within themselves, with one arm of the company foreclosing on the home while the other arm offers assistance to the homeowner. This problem is occurring even among the servicers participating in the administration's current \$75 billion Home Affordable Modification Program. Servicers operating under the year-old program are forbidden from auctioning someone's home while a modification decision is pending. However, homes are still being foreclosed on and auctioned off anyway.

The problem seems to lie in a lack of enforcement, lack of punishment and oversight. The Treasury Department has failed to penalize the servicer for breaking the program's rules. Treasury officials overseeing the program say they're aware of the problems and have moved to fix them. However, some states are moving forward to protect the homeowners with recent rules that stop the foreclosure process if the homeowner requests a modification.

Many homeowners have sought assistance through the courts to reclaim their homes. At a minimum 50 homeowners have recently filed lawsuits alleging a servicer foreclosed on their home while a loan modification was pending and while they were on a payment plan.

Homeowners commonly wait 6 months for a decision on a loan modification request. The new federal program for encouraging loan modifications includes a 3 month trial period, after which servicers are to decide whether to make the modifications permanent. Some homeowners are saying they have waited as long as 10 months for an answer only to be turned down resulting in misrepresentation and failure of the modification.

Millions of struggling homeowners have inundated banks and other servicers – Bank of America is the biggest, followed by Chase and Wells Fargo Bank – for assistance in an effort to avoid foreclosure proceedings. Communication breaks down because of the way in which the servicers are structured. While one division typically deals with loan modifications, another division deals with foreclosures. Often one division is not communicating with the other division.

Homeowners need to beware of companies that state they work with large banks to avoid foreclosure and of companies charging fees for their assistance. Many homeowners are entering into the loan modification process only to learn that while the modification is being reviewed their home is being foreclosed on and ultimately losing their home.

Under the new federal program, servicers must give borrowers a written denial before foreclosing. However, the servicer is allowed to push along the foreclosure process and even set a sale date. This allows the servicer to foreclose more quickly if it is determined that the homeowner doesn't qualify for a modification. Ultimately, a homeowner may find that they get a modification offer one day and a foreclosure notice the next.

It is possible to contest a foreclosure under the new federal program. New rules issued by the Treasury Department say the servicer must first give the homeowner a shot at a modification before beginning the foreclosure process. If your home is being foreclosed on and you have

sought to modify your existing loan, make sure you seek proper legal advice. The sooner the better and preferably, BEFORE the foreclosure date.

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