

GMAC suspends foreclosure evictions and sales of seized property

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By **KIMBERLY MILLER**

Palm Beach Post Staff Writer

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Foreclosure evictions and homeowner lockouts have been halted by Ally Financial Inc.'s GMAC Mortgage in 23 states including Florida as the nation's fifth-largest home loan servicer addresses legal challenges to its foreclosure procedures.

A two-page memo dated Sept. 17 and marked "urgent" told brokers to immediately stop evictions, cash-for-key transactions, lockouts and to suspend sales of properties already taken back by the bank in foreclosure.

The memo, first reported by Bloomberg news service, comes at the same time the Tampa-based Florida Default Law Group has been withdrawing legal affidavits in its GMAC foreclosure cases under "candor to the court" rules acknowledging previously submitted information may have been inaccurate.

St. Petersburg defense attorney Matt Weidner, who is handling a case in which a GMAC affidavit was withdrawn last week, called the freeze "staggering."

"I suspect they are recognizing they have a really big problem," Weidner said. "I think they are afraid the foreclosure judgments may be voidable."

If that's the case, Weidner said it won't be just GMAC redoing their foreclosure procedures.

"We're not just talking about isolated incidents of problems with foreclosures, we're talking systemic," he said.

Foreclosure defense attorneys say the affidavits withdrawn by the Florida Default Law Group center on foreclosure documents signed by a GMAC employee. The employee, in deposition questioning by West Palm Beach-based law firm Ice Legal, said he did not have personal knowledge of the accuracy of each of the 10,000 foreclosure-related affidavits he signed each month, they say. Some of the documents include assignments of mortgages on which the GMAC employee signed as vice president of Mortgage Electronic Registration Systems. MERS is a company created by the nation's leading banks to ease the process of transferring and selling of home loans.

The legality of whether the nationwide electronic system can determine the owner of a mortgage and then assign it to a bank or investor is being questioned by some attorneys. It's become especially complicated by the real estate boom-time practice of bundling home loans and selling them as securities.

GMAC Mortgage may "need to take corrective action in connection with some foreclosures," this month's memo read.

"We are unable to comment on the specific merits of the legal challenge because some of them are in litigation," GMAC spokesman Jim Olecki said Monday. "Nevertheless, a new process has already been developed and implemented so that though some existing foreclosures may experience delays while corrective action is taken, there will be no interruption in new foreclosures."

Ice Legal attorney Christopher Immel, who deposed the GMAC employee, said after he posted the deposition online, legal teams from other states picked up on it and did their own depositions.

Immel said GMAC isn't the only company that has a single employee signing off on thousands of foreclosure documents each month that he or she is supposed to have personally verified.

"To keep up with the foreclosure volume they need certain documents executed and they don't have time to review them because it's just an assembly line," Immel said. "They've set this up as just part of their business practice."

A report last week by the Irvine-Calif.-based company RealtyTrac showed home repossessions hit an all-time high in August with 95,364 bank takeovers. In Florida, 12,329 homes were repossessed in August, including 509 in Palm Beach County.

It was unknown Monday how many mortgages are held or serviced by GMAC in Florida, but according to Inside Mortgage Finance, an industry newsletter, GMAC ranked fifth among U.S. home-loan servicers as of June 30 with \$349 billion worth of loans.

"GMAC has painted this as a momentary problem," said Inside Mortgage Finance Publisher Guy Cecala. "We don't actually know if it's more than that."

kimberly_miller@pbpost.com