

AG's office seeks 'robo-signers'

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Attorney General Andrew Cuomo on Tuesday said his office is seeking more information from four major mortgage servicers — Bank of America, JPMorgan Chase, Wells Fargo and GMAC Mortgage/Ally — concerning the filing of affidavits that falsely attest the signer had personal knowledge of the facts presented in the foreclosure proceedings.

He is asking that all foreclosure actions in New York be suspended until the banks correct their procedures to

comply with New York law, and until the public and the courts are assured that integrity has been restored.

According to the most recent numbers from RealtyTrac, an online marketplace for foreclosure properties, one in 1,660 housing units in New York state was under a default notice, auction sale notice or bank repossession in August. There were 33,200 statewide for the first eight months of the year.

Richard Bamberger, the AG's director of communications, said Tuesday that the investigation actually was opened "a couple of weeks ago" but he did not know the exact date. He said Cuomo's office did not issue a press release.

Cuomo's written statement Tuesday said: "I will not allow New Yorkers to lose their homes due to mortgage goliaths that buck the system by submitting affidavits signed without knowledge of the facts. Such conduct is a fraud upon our courts and a slap in the face of New Yorkers struggling to get by in this economy. My office will continue to root out these practices so homeowners receive the full protections afforded by our judicial system."

Cuomo — who is running for governor on the Democratic ticket — said recent reports indicate that employees of the mortgage servicers routinely signed affidavits submitted in foreclosure proceedings without personal knowledge of the underlying facts or verification of loan file information, and without even reading the documents they signed, causing people to lose their homes.

Bank of America, JPMorgan Chase and GMAC Mortgage announced last week they would temporarily halt pending foreclosures, but Wells Fargo has not, despite the deficiencies that have been uncovered.

Cuomo's office is seeking documentation and information on how foreclosure documents are prepared, verified, attested to and notarized, and how required notices are provided to New York homeowners. His letters also request mortgage servicers stop re-filing foreclosures that had been suspended — and in Wells Fargo's case, cease proceeding with pending foreclosures — until

his office is assured fair and reliable procedures are in place and that accurate documentation will be submitted to New York courts.

Tens of thousands of New Yorkers have been affected by the real estate downturn, according to the release. More than 60,000 New York homes are currently in foreclosure, and 130,000 New York homeowners have received pre-foreclosure notices so far this year after falling behind on mortgage payments.

Bamberger would not say on Tuesday whether New York is one of 40 states that will join the multi-state investigation being led by Iowa Attorney General Tom Miller, whose spokesman, Geoff Greenwood, also would not reveal the list of participating states until the announcement is made official Wednesday.

Robo-signers

Investigators are most concerned about whether mortgage lenders used fraudulent or erroneous documents to force mortgagors out of their homes.

"The problem is most lawyers didn't realize there was a problem with verification and documentation coming from the banks," said **Gerald W. Dibble** of the Rochester law firm of **Dibble & Miller PC**.

He said most lawyers also didn't realize that, when the mortgage was transferred, that documentation may not have been available. **Dibble** said it has since come out that many documents were computer generated.

Some foreclosures may have been done without proper paperwork, **Dibble** said, but the mortgagors who were in arrears for some time knew they didn't own their homes. Many of those facing foreclosure haven't hired attorneys to check their paperwork because they know they cannot afford the house and have since moved on, he said.

"Usually the mortgagor knows they owe somebody a lot of money," **Dibble** said. "If the mortgagor knows they're behind, they're going to be thrown out, so why pay someone to challenge it? The mortgagor doesn't really have a whole lot of incentive to do anything with this property."

Dibble said the real problem with the documentation and foreclosure mess is that buyers may end up with a house they are not entitled to because the paperwork may be deficient or they may not be able to obtain a clean title. Others may be in homes into which they put a lot of work, but the title policy will not cover the cost of the upgrades.

Dibble couldn't estimate how many local people may have been evicted because the wrong bank filed papers or they actually made payments and were not delinquent — he did say he hasn't heard of any.

Dibble said the banks have created a problem that could turn into a crisis if all of the affected homes' foreclosures are halted and they are later put on the market all at once.

"Any disruption in the real estate market for unnecessary delays in buying and selling is a serious disruption in the American economy," **Dibble** said.

How did this start?

According to a Sept. 23 article in the American Bar Association Journal, the suspicions of a retired Maine pro bono attorney, Thomas Cox, helped to uncover the name of a GMAC — now Ally Financial — "robo-signer mortgage employee," Jeffrey Stephan, who signed off on more than 10,000 mortgage documents monthly, giving him about 1.5 minutes to review each document.

Cox's information was obtained when he deposed Stephan in June 2009, and uncovered similar information in another deposition conducted in December.

Cox is a volunteer with Maine Attorneys Saving Homes, who is still working to get a summary judgment overturned in his client's case.

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