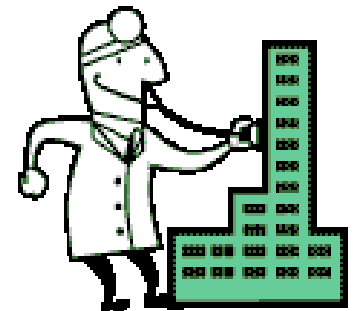


Florida Foreclosure Checkup and CFPB Compliance

(What you need to know)

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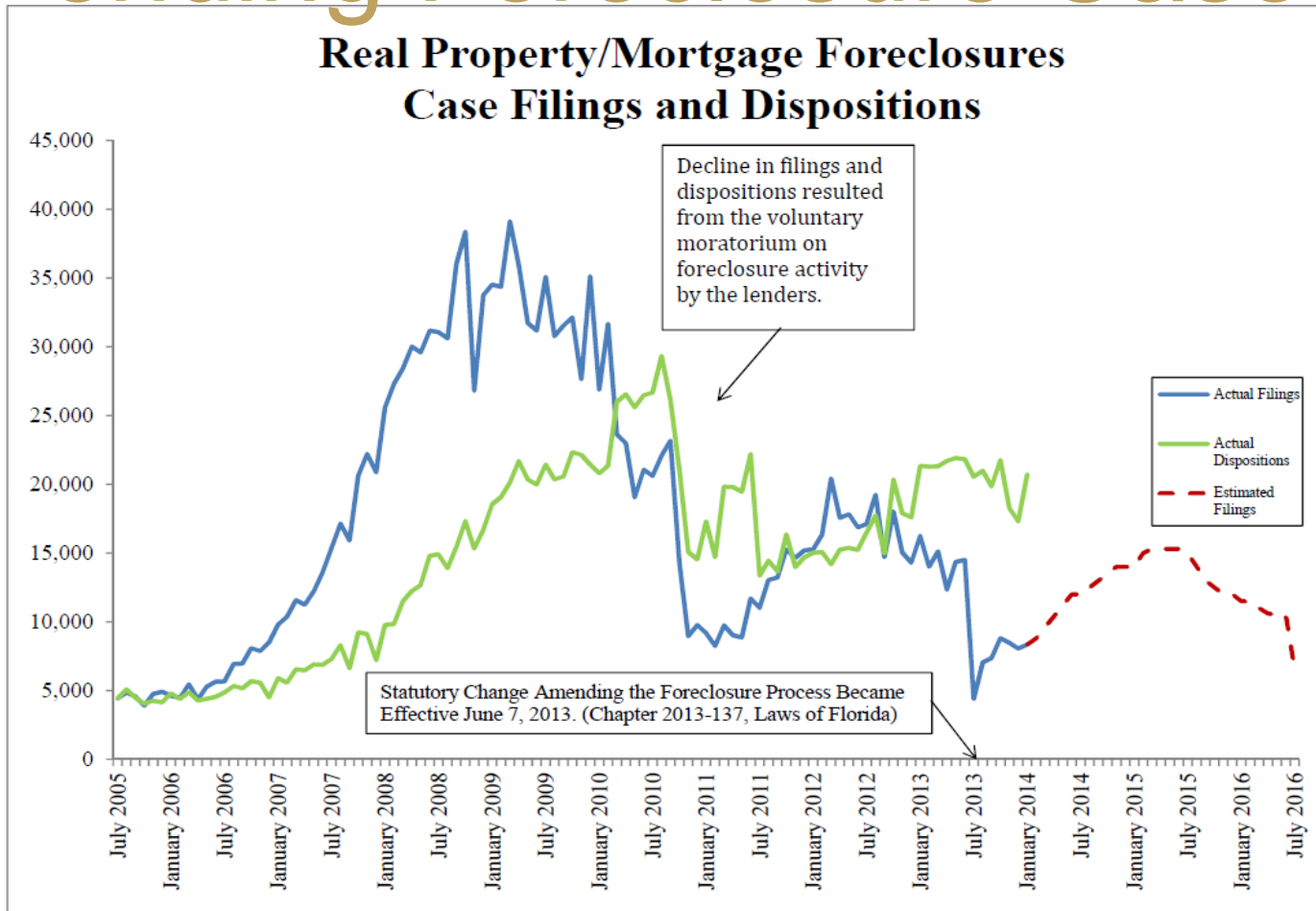


Foreclosures Today

- While the number of total filings nation-wide has decreased over the years since the beginning of the foreclosure crisis, Florida is still by far one of the nation's leaders in all aspects of the foreclosure industry.
- Ranking #1 in the nation, Florida's inventory of homes with loans in default, homes being foreclosed, and the inventory of bank-owned properties continues to climb.
 - One in every 407 homes on average is affected by foreclosure.
 - As of March 31, 2014, there were about 218,000 mortgage foreclosure cases pending in Florida courts.
- As of the first quarter of 2014, the average time for completion of foreclosure in Florida is **935 days**, but Florida is not the leader.
 - New Jersey averages **1,103 days**
 - New York averages **986 days**
 - Hawaii averages **840 days**
 - Illinois averages **830 days**
- Average timeline for a Vernis & Bowling complete foreclosure in 2013
 - **232 days**

Statistics Data from RealtyTrac and www.flcourts.gov

Pending Foreclosure Cases



Source: www.flcourts.gov

Florida Foreclosure Checkup

- In June 2013, Florida's governor signed into law House Bill 87, which was enacted with the purpose of speeding up Florida's foreclosure process.
- In January 2014, regulations which had been passed by the efforts of the Consumer Financial Protection Bureau were put into effect, with the goal of protecting consumers during the mortgage foreclosure process.

FORECLOSURE PROCESS INDICATORS – Compare Florida to National

	90+ DAYS DELINQUENT	FORECLOSURE INVENTORY	COMPLETED FORECLOSURES IN 2013	FORECLOSURE TIMELINE	MONTH'S SUPPLY OF DISTRESSED HOMES	LOAN-TO-VALUE RATIO
U.S.	5.00%	2.00%	607,370	564	6.08	61.80%
FLORIDA	10.90%	6.40%	116,121	935	7	71.80%

SOURCE: CORELOGIC; REALTYTRAC

What is the CFPB?

- The Bureau of Consumer Financial Protection (CFPB)
- Its purpose
- Its functions

Source: www.federalregister.gov

How does the CFPB affect Foreclosures in Florida?

- The new CFPB mortgage rules provide important new federal protections to borrowers to help ensure they are able to apply for all the foreclosure avoidance options available to them. The rules end the runarounds and eliminate some of the surprises of the mortgage crisis.
- What does this mean for a lender with a defaulted loan?
 - Changes to timelines in default processing.
 - Changes to requirements for noticing the borrower of default issues.
 - Changes to staffing in loan default and servicing departments.

Source: www.consumerfinance.gov

What qualifies as an error in Mortgage Servicing under the CFPB's rules?

“Error” refers to the following categories of covered errors:

1. Failure to accept a payment that conforms to the servicer's written requirements for the borrower to follow in making payments.
2. Failure to apply an accepted payment to principal, interest, escrow, or other charges under the terms of the mortgage loan and applicable law.
3. Failure to credit a payment to a borrower's mortgage loan account as of the date of receipt in violation of 12 CFR § 1026.36(c)(1).
4. Failure to pay taxes, insurance premiums, or other charges, including charges that the borrower and servicer have voluntarily agreed that the servicer should collect and pay, in a timely manner as required by § 1024.34(a), or to refund an escrow account balance as required by § 1024.34(b).
5. Imposition of a fee or charge that the servicer lacks a reasonable basis to impose upon the borrower.

Source: www.consumerfinance.gov

Errors (cont'd)

6. Failure to provide an accurate payoff balance amount upon a borrower's request in violation of section 12 CFR § 1026.36(c)(3).
7. Failure to provide accurate information to a borrower regarding loss mitigation options and foreclosure, as required by § 1024.39.
8. Failure to transfer accurately and timely information relating to the servicing of a borrower's mortgage loan account to a transferee servicer.
9. Making the first notice of filing required by applicable law for any judicial or non-judicial foreclosure process in violation of §1024.41(f) or (j).
10. Moving for foreclosure judgment or order of sale, or conducting a foreclosure sale in violation of § 1024.41(g) or (j).
11. Any other error relating to the servicing of a borrower's mortgage loan.

Source: www.consumerfinance.gov

Error Reporting

- Designate an address for error reporting by the borrowers
- Must acknowledge receipt of error notice within 5 days of receipt.
- Example of an Error and the CFPB's Response.
 - Error: Imposition of a fee or charge that the servicer lacks a reasonable basis to impose upon the borrower (receiving kickbacks from preferred PMI companies and overcharging loans where affiliates were not utilized).
 - CFPB said: Administrative Proceeding File No. 2014-CFPB-0002 –
 - CFPB Investigated and filed suit in January 2013 against PHH Corporation, PHH Mortgage Corporation, PHH Home Loans LLC, Atrium Insurance Corporation, and Atrium Reinsurance Corporation – **CASE STILL PENDING AS OF JULY 7, 2014.**

Error Investigation Requirements

- A servicer must respond to a notice of error by either:
 - Correcting the error
 - Conducting a reasonable investigation

Source: www.consumerfinance.gov

Different or additional errors

- Errors discovered during an investigation that have not been reported by the borrower must still be corrected.

Source: www.consumerfinance.gov

Errors – Additional Information

- A servicer may request supporting documentation from a borrower in connection with the investigation of an asserted error, but **may not**:
 - Require a borrower to provide such information as a condition of investigating an asserted error; or
 - Determine that no error occurred because the borrower failed to provide any requested information without conducting a reasonable investigation.

Source: www.consumerfinance.gov

Time Limits on Handling Error Reports

- A servicer must comply with the requirements for investigating an error report after the servicer receives the notice of error for errors:
 - For failure to provide an accurate payoff balance.
 - 7 days after receipt.
 - For moving forward with a foreclosure referral, or foreclosure sale, prior to the prescribed timeline outlined by the regulations.
 - 30 days after receipt.
 - ***Neither of these time limits may be extended.***
 - For all other asserted errors.
 - 30 days after receipt.
 - ***May extend the time period for responding by an additional 15 days, provided certain requirements are met.***

Source: www.consumerfinance.gov

Required Documentation

- After error is corrected and reported to the borrower, borrower may request additional documentation in support of an error investigation
 - Reply due within 15 days of receiving the borrower's request for such documents.
- A servicer is not required to provide documents relied upon that constitute confidential, proprietary or privileged information.
 - Notice of Confidentiality due to borrower within 15 days of receiving the borrower's request for such documents.

Source: www.consumerfinance.gov

Alternative Compliance

- Early Correction
 - A servicer is not required to acknowledge or respond to an error if the servicer corrects the error or errors asserted by the borrower and notifies the borrower of that correction in writing within 5 days (excluding legal public holidays, Saturdays, and Sundays) of receiving the notice of error.
- Error asserted before Foreclosure Sale
 - A servicer is not required to acknowledge or respond for errors asserted regarding foreclosure referrals or foreclosure sales if the servicer receives the applicable notice of an error 7 or fewer days before a foreclosure sale.
 - For any such notice of error, a servicer shall make a good faith attempt to respond to the borrower, orally or in writing, and either correct the error or state the reason the servicer has determined that no error has occurred.

Source: www.consumerfinance.gov

When is Compliance not Required?

- A servicer is not required to acknowledge or respond to an error if the servicer reasonably determines that any of the following apply:
 - Duplicative notice of error.
 - Overbroad notice of error.
 - Untimely notice of error.
- If it is determined that compliance is not required, the borrower must be notified in writing within 5 days of such determination, and why compliance is not required.

Source: www.consumerfinance.gov

Errors: Additional Information

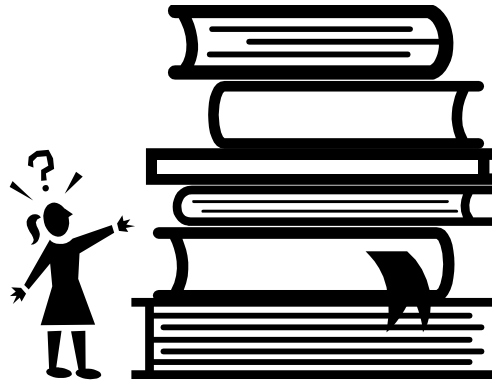
- A servicer may not make conditions to the borrower before responding to an error. A servicer may not:
 - Charge a fee for error information
 - Require a borrower to make any payment that may be owed on their account.
- After receipt of a notice of error, a servicer may not, for 60 days, furnish make reports to the credit bureaus regarding the disputed information.
- Remedies permitted.

Source: www.consumerfinance.gov

Penalties: Why you should comply

- Mortgage Master out of Walpole, Mass., and Washington Federal out of Seattle have had to pay \$425,000 and \$34,000 in penalties, respectively, after the CFPB claimed it had found numerous data errors in the firms' mortgage applications. (Source: <http://www.housingwire.com/>)
- RealtySouth, the largest real estate firm in Alabama, ordered to pay \$500,000 for inadequate disclosures that could leave consumers unaware of their rights to choose service providers during the home-buying process (Source <http://www.consumerfinance.gov>)
- GE Capital Retail Bank (GE Capital), now known as Synchrony Bank, ordered to provide an estimated \$225 million in relief to consumers harmed by illegal and discriminatory credit card practices (Source <http://www.consumerfinance.gov>)
- CFPB, Federal Partners, and State Attorneys General File Order Requiring SunTrust to Provide \$540 Million in Relief to Homeowners for Servicing Wrongs (Source <http://www.consumerfinance.gov>)

Any Questions?



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