

Miller says foreclosure investigation is broad-based

THE DES MOINES REGISTER • DECEMBER 12, 2010

Comments (32) Recommend Print this page E-mail this article Share ? Type Size A A A

Tom Miller, Iowa's attorney general, heads a group of the nation's attorneys general and bank regulators who are investigating how banks and mortgage servicers handle foreclosures. The investigation, which began with the industry's use of "robo-signers," prompted a temporary moratorium on foreclosures and sparked concerns about the impact to the national economy.

ADVERTISEMENT

 <p>Price: \$1138 Bid: \$57.42 SAVE: 95%</p>	 <p>Price: \$799 Bid: \$13.79 SAVE: 98%</p>
 <p>Price: \$1572 Bid: \$97.16 SAVE: 94%</p>	 <p>Price: \$299 Bid: \$42.51 SAVE: 86%</p>
<p>Save 90% ON BRAND ITEMS</p>	
<p>QuiBids Bid Now</p>	

Q: Can you describe the scope of your investigation?

A: Initially what surfaced somewhat dramatically in mid- to late-September was the question of affidavits and notaries, whether either or both were robo-signed, rather than servicers fulfilling the obligations that they should have.

On affidavits, they're supposed to say we've looked through the records, and people owe this much, and they're in default, etc., and can verify that. Instead of doing that, they signed one affidavit after another.

And the notaries were supposed to have the person doing the affidavit in front of them and ascertain they were the person. They were doing the same thing, signing one affidavit after another without the people in front of them.

Once we got involved, it became clear that there were additional and similar problems, with servicing of loans generally, and the modification of those loans, in particular. So we combined both significant concerns in our investigation.

We're also looking at issues like the assignment process of mortgages from one entity to another. We're also looking at the fees charged to homeowners in modifications and foreclosures to see if they were proper.

What we decided to do was to have a fairly broad-based investigation and try to work through that and have a remedy that left the system and the country better off than when the mess started in September.

Q: Who all is involved in the investigation?

A: We have an executive committee of 14 state attorneys general and three or four banking regulators that have been working hard. We have met with the five largest servicers that service 59 percent of the mortgages in America. It's a big part of the mortgage operation. It's Bank of America, Wells Fargo, JPMorgan Chase, Citibank and Ally Financial/GMAC.

Q: To step back a second, how did you go from looking at robo-signing of affidavits and notaries to looking at loan modifications? How are they similar?

A: They're similar in the sense that one of the causes of the robo-signing was really under-funding the process. One of the problems with mortgage servicing is that they haven't funded the process. They haven't hired enough people and trained them well enough to do it. So there were similarities there.

Also, the thinking from the beginning was if companies owed substantial fines from robo-signing, it would make more sense to use that money to further the modification and servicing process and make that what it should be. That's the connection.

Q: There have been reports about your group requiring some kind of compensation fund. Is that an option?

A: That's an option - to compensate homeowners who were foreclosed upon that shouldn't have been. And I think that's something that should be in a resolution.

But I don't think that will be a major part of the resolution. I think, at one point, there was a lot of press on that, and as a result, it was made out to be larger in this process than it will be.

Q: Lenders and servicers have repeatedly said no homeowner has lost a home that shouldn't have.

A: Maybe that's the case, in which there may be no compensation. But another category to think about ... are people who should have had a loan modification and weren't modified even though they met the criteria.

Maybe they should be compensated in some way. That's something we'll talk about.

And when I say modification, I mean fundamentally this: some people who can't make the full payment but could make a substantial payment and that payment that they can make is more than the investor would get if the home was foreclosed upon. So in those cases, the modification is in everybody's best interest - the homeowner, the investor, servicer and the national economy.

Q: When you talk about an investigation, what does that entail? Do you have investigators in banks, looking at their foreclosure processes?

A: I guess one point to make is that we're working closely with the federal authorities. We're keeping each other well informed about what's happening and what we're thinking. The degree of cooperation with the Obama administration is at an extremely high level. Higher than I've ever seen before in the five previous administrations that I've had contact with.

They're doing some investigations and we're doing some. With federal banks, they have more authority than we do. And entities regulated by state banks, we have as much or more authority than they do.

Q: What do you see as the best possible outcome?

A: We continue to work on the investigation itself, and the remedies that might follow, so it's a little too early to tell.

In general terms, I'd like to see that the robo-signing issues never happen again. We need to make sure those issues never happen again.

And second, to try to improve significantly the servicing operations in such a way that the maximum number of modifications be made - the ones I described where the person would pay more than the investor would receive in foreclosure - that those modifications be made in an efficient, effective system.

Q: Why is this issue of robo-signing so important?

A: Robo-signing is important for number of reasons. Fundamentally, it goes to the integrity of the court system in a state like Iowa. If you foreclose on home, you have to bring an action in court; you have to get the equivalent of a summary judgment to have the court order foreclosure. To get summary judgment, you have to file an affidavit saying that I checked on the loan, and the person owes this much money and had a chance to pay and didn't. To sign an affidavit that's not true, that you didn't check, didn't do anything but sign the affidavit, that's something that shouldn't happen in our court system.

We don't know if someone has been evicted, that has been foreclosed upon that shouldn't.

The banks say that hasn't happened and it might be true. But there's work to be done to ascertain that.

And it doesn't speak to the issue of people who should have been modified but for a variety of reasons the servicers didn't do that or weren't able to do that. That's a related and important issue.

Q: Is that the intrinsic issue, that there was a mill created where lenders didn't give the proper attention to consumers' rights and maybe some of these options weren't considered in the rush?

A: That's right. Some of this has been farmed out in away that has been the equivalent of what people call mills and these problems developed. And separate but related, sometimes the inability of the servicing companies to do modifications that they should do. That's very significant.

Q: Are profits driving these shortcuts?

A: Well, we're still investigating; we still don't know. ... Servicing is a high-volume business and that makes it very challenging. But there's a real question of competency and lack of competency in handling modifications and that needs to be changed.

Q: What's the economic impact of the investigation - or the shortcuts that lenders took, depending on your point of view?

A: Much of the foreclosure process is continuing now. If foreclosures had been shut down for six months, I think there would have been a significant economic impact.

But given what's happened and what's played out, by questioning and slowing down the foreclosure process, I don't think that's affected the housing market in any significant way.


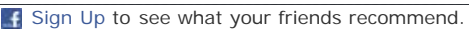
On the other hand, if we develop a way that more modifications are made, that should be made, that's going to have an enormous beneficial effect on the housing market and the economy in general.

Q: Sometimes when you read these stories, the problems just seem overwhelming. Do you ever get that feeling as you work through this?

A: We do, we do. This whole goal of preventing foreclosures and preventing them by modifications is a very daunting task. It's much more difficult than anybody ever realized. ...

Having said that, servicers have had three and a half years to get this right, and they haven't. There's still a lot more that they need to do to be effective and make the modifications that they should.


Now is the time to get it right. That's our goal.

 Recommend  Sign Up to see what your friends recommend.

 Tweet

 Share  14

CLASSIFIED LISTINGS: [Des Moines jobs](#) | [Cars for sale](#) | [Des Moines homes](#)

 32 [Story chat](#)
Read and share comments on this story.

Show comments for all articles ▼