

State foreclosures put

Chief justice wants intervention process finished to clear up problems

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COLUMBIA — Thousands of homeowners facing foreclosure across South Carolina are getting a second chance after state

Supreme Court Chief Justice Jean Toal ordered all foreclosures halted until after an intervention process can be completed.

Toal's order is the second in two years on the issue and the result, she said,

of breakdowns in the process.

She said judges with jurisdiction over foreclosures have told the Supreme Court they're having trouble because of failed or delayed "mitigation efforts" between those making and servicing the loans and those owing the money.

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That, Toal said, has caused the number of unresolved foreclosure actions

on hold

to increase.

Sue Berkowitz, an attorney and director of the Appleseed Legal Justice Center, which assists low-income citizens with legal matters, hailed the order as a victory for the consumer.

"The mortgage companies were not doing what they were supposed to be doing," she said. "They

were losing documents. They weren't going through the process in good faith. I think this is an excellent step forward. This is going to help consumers a lot."

The federal government several years ago created a program to try to assist ho-

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meowners facing foreclosure of properties guaranteed by Freddie Mac or Fannie Mae.

The government subsequently issued guidance for lenders in mortgages not involved in Freddie Mac or Fannie Mae. Lenders weren't required to participate in the Home Affordable Modification Program, Toal wrote, and problems have ensued.

"The trial courts report that such breakdowns are largely the result of communication between len-

der-servicers and debtors," Toal wrote.

She ordered that for all foreclosures pending as of next Monday, lawyers for lenders must certify certain acts have occurred before the foreclosures can proceed.

Under the order, homeowners must have been notified of the mortgage intervention process, lenders must have received and examined all documents and records submitted by the homeowner, and efforts at loan modification or other "loss mitigation" must be exhausted.

If 30 days after being notified of the mortgage intervention process a homeowner refuses, fails or

chooses not to participate, the lender can notify the court and foreclosure can proceed.

If the lender and homeowner reach an agreement, no hearing or foreclosure action can be taken for 90 days, after which the foreclosure shall be dismissed, or if the homeowner violates the agreement, will proceed, according to the order.

Problems in the intervention process have been reported nationwide, slowing down foreclosures. Foreclosure filings in Greenville County for the first three months of the year fell 34 percent and 12 percent statewide, according to RealtyTrac, an online

marketplace for foreclosure properties.

As of March, the state had 23,681 foreclosure filings. Greenville County led the state with 360 new foreclosures for March, according to RealtyTrac, among 2,917 new foreclosures in South Carolina

during the month.

One problem, Berkowitz said, was that especially with large lenders, communication was poor, leading to situations where homeowners pleaded their case to the bank "and the next thing they know their house was up for sale be-

cause while they thought they were negotiating in good faith, the bank was going forward with the legal process."

She said Toal's order should aid the courts as well as consumers.

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