



Outline – Foreclosure State Updates Judicial, Non-Judicial & Quasi Judicial

Lead: Doug Oliver - Illinois

Panelists/Update States:

Brian Nicholas – New Jersey
Rich Haber – New Jersey, New York
Alex Schulz – Arizona, Hawaii
Casey Rossato – Connecticut
Erica Jones - California
Nichole Williams - Colorado
Jane Bond - Florida
John Kay – South Carolina

Panelists will provide major state updates and/or overview of pending legislation.



Outline – Updates, cont'd

Arizona

- 1) Universal \$30 flat fee for recording documents – ARS § 11-475 (eff. 07/01/19)

Arkansas

- 1) Act 885 litigation

California

- 1) California - Hardie v. Nationstar - Civil Code 2924.12 (h) permits an award of attorney's fees after borrower obtains TRO
- 2) Stripped down version of Homeowner Bill of Rights ends; original full version is back
- 3) Expanded protection of active duty military borrowers – Mil. & Vet. Code § 408

Colorado

- 1) *Obduskey v. McCarthy & Holthus LLP* in which the Supreme Court held that a business engaged Colorado nonjudicial foreclosure process is not a “debt collector” for purposes of the FDCPA.
- 2) Statute of Limitations - *emerging Colorado precedent related to cancelling acceleration in the foreclosure context that impacts statute of limitations analyses*
- 3) Partial payment language and compliance with Colorado demand letter requirements.

Connecticut

- 1) HB 6996-extension of Foreclosure Mediation Program
- 2) HB 7179-Committee and REO Closings to Require Additional Disclosure

District of Columbia

- 1) Act 22-339 – Single-family dwellings excluded from the Tenant Opportunity to Purchase Act (TOPA), except in certain cases for disabled or elderly tenants.



Outline – Updates, cont'd

Florida

- 1) New additions to HOA Statute
- 2) Case law regarding HELOCS
- 3) Surplus Funds for second liens, 7/1/19 changes to surplus statute
- 4) *Nationstar v. Glass* – current status of the law regarding no standing, no attorney's fees

Hawaii

- 1) Statute of limitations
- 2) Title company issues

Illinois

- 1) HB3360: extends enhanced “tier” filing fees for mortgage foreclosure cases to January 1, 2023.
- 2) SB 169: amends the requirement of a notice of foreclosure to the county or municipality within which the mortgaged property sits. Provides that failure to comply with notice requirements results in a \$500 fine, rather than dismissal of the suit.
- 3) SB1134: amends service by publication in foreclosure cases to provide that service by publication shall be mailed by the plaintiff or its agent rather than by the clerk of court.

Indiana

- 1) Some judge interest in our flat fee structure and prohibition on collecting settlement conference fees in judgments.
- 2) Statutory provisions allowing municipalities to intervene and petition for a sale to satisfy their interest.

Maryland

- 1) Baltimore County issues with Final Loss Mitigation Affidavits and other issue affecting sale ratification.
- 2) Baltimore City ransomware issue affecting the recording of deeds.
- 3) Post-eviction rental scams/trespassers in Baltimore County, Baltimore City, and Prince George's County.
- 4) Senate Bill 512 – Signed on 5/13/19. State or federal employees that have been furloughed because of a government shutdown (must last more than 7 days) can move the court to stay the foreclosure action for a reasonable period.



Outline – Updates, cont'd

Massachusetts

- 1) Thompson vs. JP Morgan Chase Bank
 - Impact on pending foreclosures
 - Recommended changes to default notices
 - Status of Motion for Rehearing with the First Circuit Court of Appeals

Mississippi

- 1) New mobile home law

Nevada

- 1) SB 382 revises terminology applicable to deeds of trust; revises reporting requirements for Home Means Nevada, Inc.; mortgage not a conveyance, so mortgagee not entitled to take possession without foreclosing or having receiver appointed

New Jersey

- 1) Multiple Foreclosure Laws Enacted 4-29-19:
 - a. A664, A3411, S3413, S3416, S3464, A4997 Mortgage Servicing Licensing Act, A4999
 - b. A5001, A5002
- 2) Changes to the NJ Rules of Court – Effective 5-1-19

New York

- 1) Statute of limitations and proving compliance with pre-foreclosure mailing requirements

Rhode Island

- 1) Minor revisions (which became mandatory as of 6/1/19) to Form of Pre-foreclosure Mediation Notices

South Carolina

- 1) New SCRA legislation

Tennessee

- 1) Serial BK filers becoming much more common issue



Outline – Updates, cont'd

Texas

- 1) Texas Legislative Session just ended with no bills affect foreclosure
- 2) New Demands must be sent after a rescission of acceleration

Virginia

- 1) Crosby v. ALG – Virginia Supreme Court decision regarding the amount of the successful foreclosure bid versus the assessed value of the property, which may require a trustee to seek the aid and direction from the court where the purchase price is substantially lower than the assessed value.
- 2) Meade v. Bank of America – Virginia Supreme Court decision holding the 5-year statute of limitation begins to run on a HUD Face-to-Face claim on date the loan was accelerated. A Bankruptcy filing, a statement of intent to surrender the property, and a discharge may not necessarily satisfy the Face-to-Face meeting exception that the borrower “has clearly indicated that he will not cooperate.

Washington

- 1) Legislative changes to allow nonjudicial sales in cases with deceased borrowers
- 2) Securing abandoned property
- 3) Statute of Limitations case law

West Virginia

- 1) Increase in property preservation issues post-foreclosure:
 - a) access requests after property secured by broker
 - b) challenges to abandonment determinations
 - c) issues verifying authority to access
 - d) issues verifying ownership