

USFN[®] Report

Updates on Mortgage Industry Trends

WINTER 2008

Changing Times

They are Upon Us

by Stephen G. Collins
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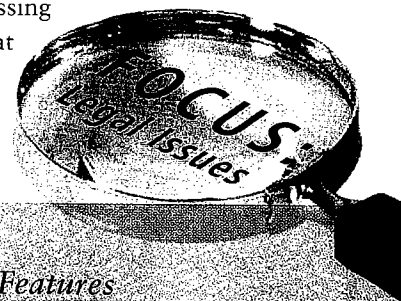
THE LEGAL ISSUES COMMITTEE, like the rest of the mortgage industry, was extremely busy last year. The housing bubble burst in 2007, and our industry received its fair share of criticism from the popular press. Regardless of the type of industry, when there is headline exposure, there is an increase in legal attacks, and this general rule certainly applied to the mortgage banking industry in 2007. From a legal issues standpoint, we witnessed a substantial amount of litigation spinning out of loans in default and, in particular, loans in bankruptcy. As expected, the plaintiffs' bar is



S. Collins

also coming up with novel theories, which generally claim that lenders are liable to their borrowers because the borrowers were not suited (i.e., could not afford) the loans they received. Recently, a couple of courts, on their own volition, have dismissed foreclosure actions due to missing assignments on the grounds that the lender did not have standing.

Last July at USFN's fourth Legal Issues Seminar for in-house counsel and litigation managers, the Legal Issues Committee discussed these issues in detail. In addition, the committee continued its quarterly calls with in-house counsel where plaintiffs' strategies and other hot topics were analyzed. From the discussions at



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FROM THE PRESIDENT

by Richard M. Leibert
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President, USFN Board of Directors

ON BEHALF of the USFN leadership and everyone on the Board of Directors, I'd like to extend our best wishes and New Year's greetings to all of our members and readers.



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We hope that you all enjoyed happy and relaxing holidays and are as excited as we are about starting off a new year with energy and optimism.

2007 was a year of many milestones, most

Celebration of USFN's 20th anniversary will include a special president's address, which you'll find here throughout 2008.

of which we hope won't be repeated. Yet, despite these turbulent events, there truly is something to look forward to — the opportunities for change and a more unified industry.

Speaking of milestones, this happens to be a landmark year for us, as 2008 commemorates USFN's 20th Anniversary! For two decades now, USFN has promoted an ongoing dialogue between its members and the industry, actively worked on behalf of our membership to secure favorable business opportunities, and supported the advancement of the real estate finance industry through education initiatives, sound legislation, and thoughtful political and governmental reform.

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the annual conference and the quarterly calls, it is clear that the plaintiffs' and debtors' bars continue to be very well networked. The plaintiffs' bar shares legal theories and strategies through conferences, blogs, and even "boot camps."

Many of the adverse court rulings in 2007 resulted from a failure of servicers and law firms to fully analyze loan information and other documentation. These unpleasant rulings are a stark reminder of the importance for all those involved in default servicing to adhere to established, time-tested best practices, and to exercise prudence with respect to foreclosure and bankruptcy actions.

In addition to the increase in litigation, many states have pending bills that amend their respective foreclosure statutes, and several of these bills have been passed into law. In this edition, several new statutes that will have a significant impact on the foreclosure process are discussed. Caren Castle summarizes the major

changes in Colorado's foreclosure statutes, which took effect on January 1, 2008. Patricia Antonelli discusses the significant changes in Massachusetts. Terry Hutchens highlights the changes to North Carolina's foreclosure statute, as well as points out recent cases in that state that will create unique challenges for mortgage servicers. Last but not least, David Fennell addresses amendments to Oregon's foreclosure statute that also became effective January 1, 2008.

The Legal Issues Committee hopes that these articles are helpful to you in establishing new procedures that will be necessary as a result of these new statutes. Comments and questions on any of these subjects, as well as suggestions for future article topics are always welcome. Feel free to contact the appropriate committee chair listed on page 2 of this publication or send an email to info@usfn.org. We look forward to hearing from you in the New Year! ■

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I love being in management for MCS because our team-oriented environment lends itself well to high employee morale. My people do everything together - they help each other out with their work - all on their own. It allows me to be more of a coach than a manager. My motto is, no matter what issues come up, make the property right. No excuses. Lucky for me, my team thinks the same way I do.



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