



Notice of Default Compliance is Facing Increased Scrutiny: Are You Prepared?

With foreclosure activity at a record high, mortgage servicers are struggling to manage an unprecedented volume of nonperforming portfolios. According to real estate data firm, Realty Trac, banks seized 1.05 million homes in 2010, topping the prior record of 918,000 homes foreclosed in 2009. In addition, Amherst Mortgage Insight reported in October 2010 that 20 percent of American homeowners—roughly 11 million—are in danger of losing their homes.

Loans are transitioning into the delinquency pipeline at a rapid pace, but are moving out very slowly. The reason? Many servicers simply do not have sufficient staff, resources or technology in place to adequately support the myriad of issues and volumes related to pre-foreclosure documentation.

A particular pain point for mortgage servicers is the Notice of Default, which is the document that typically starts the foreclosure process in non-judicial states. Staying on top of compliance for these highly-regulated documents is becoming increasingly complex and burdensome as more homes move into foreclosure. And, in today's environment, there is no middle ground. Compliance is an all-or-nothing endeavor.

Complex Compliance Requirements

In the wake of the robo-signing controversy and other market challenges, the Notice of Default now faces increased scrutiny. Lawmakers have established compliance requirements that servicers must meet in order to bring a legitimate foreclosure action against homeowners. When servicers are non-compliant, the borrowers may be able to have the entire foreclosure declared invalid and thrown out of court until the requirements are met.

Typically, the Notice of Default must specify (a) the default; (b) the amount required to cure the default; (c) a date not less than 30 days from the date the notice is given to the borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the security instrument, foreclosure and sale of the property. Some states also require that the names and contact information of licensed financial advisors be included with the Notice of Default.

The regulations don't end there. A Notice of Default is subject to font, formatting and margin requirements, which vary from state-to-state. In addition, the Notice of Default's delivery is regulated and must be sent to borrowers via certified United States Postal Service first class mail or standard First Class Mail depending on the borrower position and jurisdiction.

For mortgage servicers, maintaining compliant Notice of Default documentation means staying on top of state and federal regulations as well as understanding the different compliance requirements for the various loans (Fannie Mae, Freddie Mac, FHA, VA) and loan types (fixed versus adjustable rate mortgages). All of these variables make maintaining pre-foreclosure compliance significantly more challenging, yet more critical, than ever.

Therefore, mortgage servicers can save themselves a tremendous amount of aggravation, excessive court costs and long delays by reviewing and strictly complying with the Notice of Default document compliance regulations. Even a minor deviation may give rise to a valid defense in some judges' minds. With typical foreclosures taking nearly 450 days to completion, the last thing a servicer wants to do is start the entire process over.

Is Outsourcing the Best Option for You?

Amherst Mortgage Insight reports that one foreclosure is filed every 13 seconds in the United States. While the statistics alone are alarming, the reality is that servicers are overwhelmed by the volatility of the current mortgage market. With all of their attention focused on analyzing portfolios, working on loan modifications and handling foreclosures, maintaining state and federally compliant pre-foreclosure documentation is slipping through the cracks.

All of this instability has prompted many servicers to consider outsourcing their pre-foreclosure documentation to a third party provider. For servicers choosing to outsource, extra care must be taken to select a partner who can readily meet today's regulatory demands, including the responsibility of tracking, reporting and maintaining compliant pre-foreclosure documentation.

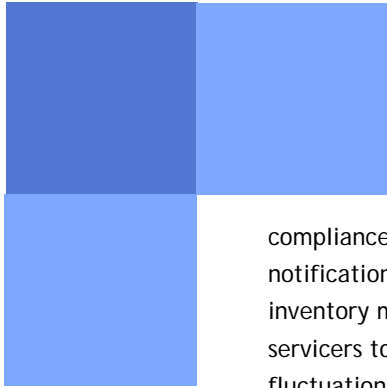
If the right provider is selected, outsourcing can help servicers avoid costly foreclosure delays while increasing process efficiency and reducing risk. Servicers should look for a provider who can automate the pre-foreclosure notification process to ensure accurate, compliant document creation, completion and delivery. A provider should be able to generate and prepare pre-foreclosure notifications, such as the Notice of Default, based on federal, state, jurisdictional and judiciary requirements; deliver them via first-class, certified mail within the required time frame; and provide a full audit trail with flexible reporting capabilities.

Additionally, an ideal outsource provider is one who offers valuable pre-foreclosure services beyond document generation and delivery. Other services, such as professional services consulting, scanning and imaging the certified mail "green card" and securely storing the physical green cards (if needed for court proceedings) also are critical to managing and maintaining compliant pre-foreclosure processes.

Why Wolters Kluwer Financial Services?

While preventing a foreclosure is always the most preferable option, it is sometimes unavoidable. Servicers need assurances from their outsourcer that they've satisfied all of the compliance requirements needed to initiate an accurate, error-free pre-foreclosure process.

Wolters Kluwer Financial Services' Pre-foreclosure Manager can help. By taking advantage of Wolters Kluwer Financial Services' warranted documentation, servicers reduce any risk associated with non-



compliance. Pre-Foreclosure Manager provides a full-service approach to the pre-foreclosure notification process, including document creation, compliance, printing, distribution, tracking, inventory management and maintenance. Additionally, utilizing Pre-Foreclosure Manager enables servicers to get up and running quickly, free their staff of manual processes, support volume fluctuations and prevent security issues with Wolters Kluwer Financial Services' secure SAS-70 certified professional print and fulfillment facility.

Today, servicers are faced with the need for greater transparency and accountability as well as increasing pressure to immediately remedy any weaknesses in their servicing practices. By partnering with an experienced, trusted provider who already has processes in place to manage pre-foreclosure notification compliance from start to finish, servicers can successfully meet whatever scrutiny comes their way.

About Wolters Kluwer Financial Services

Wolters Kluwer Financial Services' solutions include integrated and stand-alone compliance and workflow tools, documentation, analytics, authoritative information, and professional services. Customers include banks, credit unions, mortgage lenders, and securities and insurance organizations of all sizes throughout the United States. To learn more, visit www.WoltersKluwerFS.com.