

'Solution' wouldn't help lenders or economy

By Brian Korte

Once again, the Florida Legislature is attempting to fix the foreclosure crisis. Once again, a bill aims to get rid of foreclosures not by helping to find a lawful and just outcome but by seeking an expeditious outcome.

Sadly, this process wouldn't help the Floridians struggling to pay their mortgages. Ironically, it also wouldn't help the lenders – or Florida's courts, communities and economy.

Rep. Kathleen Passidomo, R-Naples, the sponsor of House Bill 87, has said the foreclosure process needs to be efficient while giving borrowers due process. Her solution is to require a so-called "show cause" hearing in

every case. But the process that the bill would codify already exists as an option for lenders.

Under existing law, lenders may request an order to show cause – to ask a judge to demand that the mortgage holder say why the lender shouldn't be granted a final judgment immediately. With thousands of cases taking years to move through circuit courts, it's clear that few lenders exercise that option. Therein lies the myth that Florida's judicial foreclosure process is holding back the banks and clogging up the courts.

By mandating a "show cause" hearing in every case, HB 87 likely would work against its stated purpose, by placing a greater burden on the

courts. The court system has howled that the glut of foreclosure cases has burdened the system. But the argument doesn't withstand the math test.

In 2012, there were more than 21,000 foreclosure cases in Palm Beach County alone. The filing fee for each one valued above \$250,000 is \$1,906. That's upwards of \$40 million that the court system would not have seen had it not been for the foreclosure cases. And that fee is only the beginning. The total of all the fees to process a foreclosure case to its conclusion is closer to \$2,500. Even conservatively estimating that half the foreclosure properties are valued at less than \$250,000, it still adds up to nearly \$20 million in-

Moving cases faster would make things worse.

to the court system for each of the last five years of the foreclosure crisis. And that's just Palm Beach County.

It is clear, however, that the money is not being used to reduce the case load. In 2010, legislators gave the courts \$6 million to hire additional senior judges and case managers to deal with the foreclosure bottleneck. The clerks of court received \$3.6 million. That was statewide. But that wouldn't account for even one year's worth of

additional dollars entering the system from Palm Beach County's foreclosure filings. The state is not putting its money where its mouth is.

But the problem goes deeper. Presume for a moment that the courts were able to expedite all 366,000 foreclosure cases pending in Florida. The likely outcome is that lenders would continue to put only one of every two repossessed properties on the market, keeping the other as part of the stockpile known as the "shadow inventory."

Expediting the court process would accelerate the one thing that would most hurt communities and businesses, because it would result in thousands of additional foreclosure sales or empty

houses. Banks have proven themselves to be terrible landlords – contributing nothing to the local economy, paying taxes only after a sale, and paying little, if any, homeowners' association fees.

For any borrower, working out a modification or short sale takes at least six months. Under this bill, a homeowner would lose his home before having a chance even to respond to a modification offer. Florida would gain nothing by forcing the court system to work so fast that distressed homeowners have no chance to work out a solution with their lenders.

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