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Loans still due despite foreclosure

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By [Jim Weiker](#)

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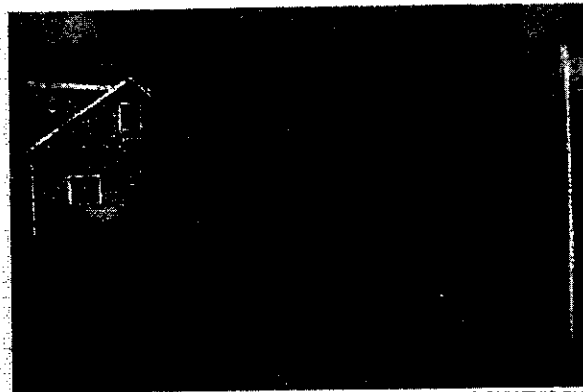
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Some central Ohioans are learning that their financial problems didn't end when they lost their homes to foreclosure.

They are hearing from banks months after losing the home that they are still on the hook for the unpaid loan balance.

According to several central Ohio lawyers, banks are quietly ramping up efforts to collect the debts.



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"In my experience, this is something new, something we haven't seen before," said Columbus lawyer Troy Doucet, who said three of his clients have been contacted by lenders seeking to collect the loan balance.

In the most recent case, a client received a letter saying she and her husband owed more than \$45,000 almost two years after they lost their northern Ohio home to foreclosure.

"She's shocked. She had moved to Columbus to start her life over and then got this," Doucet said. "It's like kicking them when they're down."

Ohio law allows lenders to collect such debts up to two years after a foreclosure or up to 15 years after a property is sold in a short sale.

Banks employ what is called a deficiency judgment to collect the debt, requiring a defaulting borrower to pay the balance of a loan and any fees, minus what the bank recovers when it sells the home

In a worst-case scenario for borrowers, banks could garnishee wages to pay off the loan balance.

Lenders traditionally have not pursued such debts because there has been little money to collect. But lenders are under pressure to minimize their foreclosure losses, especially from borrowers who walk away from the debt.

In June 2010, the government mortgage giant Fannie Mae authorized servicers who handle their loans to pursue such collections.

Fannie Mae spokeswoman Keosha Burns said the agency does not release data on how often deficiency judgments have been pursued but said they are used only for certain borrowers.

"We focus our deficiency collection efforts on situations in which the borrower has a reasonable ability to pay all or a portion of the remaining unpaid loan balance," she said.

Chris Spiroff, a Columbus lawyer whose firm handles foreclosures and other debt cases, said he also has seen

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an increase in lenders pursuing deficiency judgments.

"I've been doing this 23 years, and I've seen this six times in 23 years. Three of those were in the last nine months."

Spiroff said all three recent examples involved Fifth Third Bank seeking to collect outstanding second mortgages on foreclosed homes. Bank spokeswoman Debra DeCourcy declined to comment.

Doucet, Spiroff and other lawyers who manage foreclosure cases urged homeowners going through foreclosure or short sales to try to get the lender to waive their right to pursue the debt.

Others who work with foreclosures say they have not seen a rise in deficiency collections but expect to see them as banks and the federal government attempt to stem their losses. (Fannie Mae lost \$5.1 billion in the most recent quarter alone.) Some banks have sold their debt to collection agencies, which are more likely to pursue deficiency judgments.

"I think this will be more and more of a trend, collecting deficiency balances, because the banks have taken such a hit during the foreclosure crisis," said Adam Todd, a Columbus lawyer whose firm handles foreclosure cases.

Guy Cecala, chief executive and publisher of *Inside Mortgage Finance*, a Maryland-based trade publication, said government loan holders Fannie Mae and Freddie Mac traditionally haven't pursued deficiency judgments because there wasn't enough money to collect. But he also expects such collections to rise.

"I expect this to pick up over time," he said. "They're under a huge amount of pressure to pay taxpayers back, and one of the tools at their disposal is to go after these debts."

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