



News Release

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Warren C. Evans
Sheriff

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Evans halts sale of foreclosed homes

- *Sheriff says move is necessary to ensure homeowners' rights*
- *Federal bailout act protections preempt State foreclosure law, Evans says*

DETROIT, Michigan - Sheriff Warren Evans announced today that he is stopping all mortgage foreclosure sales handled through his office and urged other Michigan sheriffs to take similar action.

Evans said a thorough review of federal law has determined that to continue foreclosure sales would conflict with recently enacted federal laws that provide protections for homeowners facing foreclosure and which supercede Michigan foreclosure laws.

Evans said the Troubled Asset Relief Program (TARP) approved by Congress last fall requires the Secretary of the Treasury to implement a plan to mitigate foreclosures and to encourage servicers of mortgages to modify loans to enable homeowners to stay in their homes. Because federal law preempts state law, the TARP provision preempts Michigan's foreclosure law, meaning foreclosures cannot move forward until efforts to modify the mortgages of homes covered by TARP have been exhausted.

"After a great deal of research, I have determined there is sufficient legal grounds for me - and for other sheriffs - to halt mortgage foreclosure sales," Evans said. "I cannot in clear conscience allow one more family to be put out of their home until I am satisfied they have been afforded every option they are entitled to under the law to avoid foreclosure."

As a result, Evans said, the foreclosure sales that have been held every Wednesday and Thursday are being halted until further notice. He said an average of 300-400 sales per week have been held in recent weeks.

Wayne County has been in many ways, the epicenter of the nation's foreclosure and housing market crisis. In 1998, the Sheriff's Office processed 2,417 foreclosure sales. That number increased significantly each year, reaching a peak of 26,314 in 2007, up 32 percent from the year before. Foreclosures dipped somewhat in 2008 to just under 20,000, due in part to a temporary foreclosures moratorium by lenders Fannie Mae and Freddie Mac that ended on Saturday.

Federal Bailout & Mortgage modifications

On October 3, 2008, the U.S. Congress enacted the “Emergency Economic Stabilization Act of 2008” into law, which is more commonly known as the \$700 billion federal bailout program. Its purpose is to provide authority to the Treasury Secretary to restore liquidity to the U.S. Financial system.

Created as part of that Act, TARP was designed to purchase troubled assets from financial institutions. In most cases, this refers to bank foreclosed homes. This is particularly the case when the money the lender should expect to recover is greater than it would be under a foreclosure. That is the case for most foreclosed homes in Wayne County.

Sheriffs don't know who is covered by TARP

Evans said since he has no way of knowing which of the approximately 300-400 homes that come up for sale each week in Wayne County are covered by TARP protections and which are not, his only course of action is to halt the foreclosure sales. Since homeowners lose their rights to a property once a foreclosure sale is complete, Evans said he and other sheriffs could be allowing - under state law - the sale of some homes whose purchasers have overriding protections under federal law to obtain a mortgage modification.

Mortgage modifications could include the acquisition of a lower interest rate, the forgiveness of past defaulted payments, reduction of the monthly loan payment or perhaps the lowering of the loan principle by ways of example. Any of the above actions could mean the difference between families keeping their homes or being forced out of them.

“For most people, their home is the greatest investment they will make in life,” Evans said. “They have taken a big risk on behalf of their families and our economy. As a public official, I have both a legal and moral obligation to make sure that all of their legal remedies have been exhausted before they lose their home.”

Over the past several weeks, Evans has spoken to advocacy groups who represent foreclosed homeowners, such as ACORN and Moratorium Now, as well as mortgage lenders as he developed his strategy to address the foreclosure crisis in Wayne County. Evans said his office will work with lenders and with homeowners facing the threat of foreclosure to make sure that homeowners are being provided every option they are entitled to under the law to avoid foreclosure.

“The federal law is very clear,” Evans said. “I am urging all Michigan sheriffs to join me in implementing this moratorium on foreclosure sales to assure that Michigan homeowners have every opportunity to renegotiate their mortgages before they are subjected to foreclosure proceedings.”