



Banks to Fed: Water down mortgage rule

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Banks have opened up a new front in their battle with homeowners over faulty foreclosures -- they are asking the [Federal Reserve](#) to water down homeowners' rights to put the kibosh on mortgages based on misstatements.

And time is of the essence in this battle. Banks hope to win the concessions before July 2011, when the newly formed [Consumer Financial Protection Bureau](#) takes over regulation of this issue. Banks fear the CFPB will be less sympathetic to their cause, according to Bloomberg, which reported on the matter yesterday.

"Anyone servicing loans is now pushing the Federal Reserve" to follow through on its Sept. 24 proposal to basically gut the rescission law before oversight moves to Elizabeth Warren's CFPB, said David Lykken, with consultant Mortgage Banking Solutions.

Ken Markison, a lawyer with the Mortgage Bankers Association, told [Bloomberg](#) the changes would save lenders money. "Greater clarity will help avoid unnecessary litigation and reduce costs," he said.

A mortgage holder who finds material misstatements made by its bank during a foreclosure proceeding can force a bank to release its lien. The Fed proposed that mortgage holders would have to pay their principal before getting a lien rescinded.

Though the strategy, known as rescission, is rarely used by lawyers representing homeowners, its use is growing.

"I believe it will be kicked to Warren," Lykken said. "Servicers are not optimistic."

The fear is consumer-friendly Warren would be more interested in maintaining the law and not weakening it.

This could not come at a worse time for the banks. "The cost of servicing just continues to soar," Lykken said.

There are multiple problems with more homeowners falling behind on payments, higher legal hurdles to foreclosure and now rescission.

Banks are starting to sell servicing businesses at a discount, Lykken said.

The Post reported exclusively this week that [Bank of America](#) was shopping a subprime mortgage portfolio with billions in loans, and a source said one other major bank was considering a similar move. "This is a great time to get into servicing, not to be serving legacy assets," Lykken said.

Josh Zinner, co-director of the local Neighborhood Economic Development Advocacy Project, is not sympathetic.

"Rescission has been a right that has been part of federal law for a long time. What the proposed change would do is eviscerate the right to rescind," he said.

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