The Mobile Home—an Oxymoron for the Mortgage Lending Industry
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While mobile homes provide affordable housing alternatives to homeowners, this type of housing is becoming an increasingly big headache for the mortgage industry. For the purposes of this discussion, we will consider “mobile” or “manufactured” homes (hereafter referred to as “MH”) to be homes fabricated (usually in two sides) and transported to real estate. Since these types of homes are fabricated “off-site” and transported on public highways, some states require MH’s to be titled with the DMV office like any other motor vehicle.

Once a MH has been built, the manufacturer creates a Manufacturer’s Statement or Certificate of Origin (MSO/MCO). This is the first “title” to the MH. The MSO contains a VIN# (just like a car) and is endorsed to the purchaser. At that time, state law will determine if the purchaser is required to title the home with the state by surrendering the MSO and having a “car” title issued.

While a MH is intended to be a residence (real property), the irony is that this type of “home” is initially titled like a car (personal property). Due to this “hybrid” nature of the property being used as collateral for a mortgage loan (and to be encumbered by the lender’s security instrument), it is imperative that the originating lender require the MH to be formally converted from personal to real property.

The first step to conversion is the physical act of placing the MH on a permanent foundation and affixing it to the land (see HUD guidelines for what qualifies as “permanent”). Lenders can confirm the foundation meets HUD standards by hiring a structural engineer to examine the foundation and issue an opinion letter.

The second requirement for conversion to real property is the surrendering of the MSO or “car” title to the State and having the car title records cancelled or purged. This process, commonly known as “De-Title”, is typically set out in state statute(s). It should be noted, however, that depending on what year a MH was manufactured, some states do not require a MH to be titled with the state. Thus, De-Titling may not be necessary in all cases. From a practical standpoint, the De-Title process reduces the risk that the mortgage lender and/or title insurance underwriter insuring the loan will suffer a loss by virtue of a prior owner and/or lien holder coming forward later and claiming an interest in the MH.

Unfortunately, mortgage lenders and servicers are currently discovering that the formal MH conversion process was not completed prior to loan origination on thousands of MH loans currently in default. A lot of these loans are FHA insured and lenders are anxious to convey to HUD after foreclosure. Pursuant to HUD Mortgagee Letter 2013-18, however, mortgagees are
required to ensure that the MH has been converted to real estate pursuant to state law prior to conveyance to HUD.

So, when faced with this situation at time of default, how does a mortgage lender/servicer cure the MH issue(s)? Lenders and servicers should hire competent counsel who is familiar with all aspects of MH’s, including an understanding of the De-Title process specific to a particular state. It is extremely helpful to the process if lenders can provide counsel with as much documentation from the loan origination file as possible. Counsel can then advise whether the curative should be done pre or post-foreclosure. It should be noted that in most cases, MH curative is completed post-sale, as the lender must first obtain title through foreclosure before commencing MH curative.

A sampling of some of the issues surrounding MH curative that we are currently seeing include conflicting/inaccurate VIN#’s, car titles being in the name of prior owners, titles being encumbered with liens, etc. Due to the severity of some of these issues, it is not uncommon for MH curative to take upwards of six to eight months, especially if a title/surety bond must be obtained. It should be noted that lengthy curative can sometimes be avoided in the event a loan modification is being negotiated with a borrower, or a cash for keys agreement is being explored at the eviction stage. Our firm is currently performing MH curative work in the states of Tennessee, Georgia, Alabama and Mississippi. We have a dedicated MH staff ready to assist you with the unique challenges that each MH presents.