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## Borrowers who get behind struggle to regain footing

Homeowners who deal with foreclosure often face a tangled web of legal fights

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About \$700 a month. That's how much a mortgage broker told him four years ago he would have to pay to make his mother-in-law's home in rural Robertson County his own.

Then that payment shot up to nearly \$1,000, breaking his finances.

John Paradis has spent much of the last four years figuring out why and how to get out of the financial mess that is his mortgage. But at each turn, the situation just grows more complicated, bringing him and his family to the verge of foreclosure.

"It's just a bouncing ball going around," he said.

The tangled story of how Paradis' home went into foreclosure illustrates just how hard it is for borrowers who have fallen behind on their mortgages to get back on top.

Lenders say they stand ready to help struggling borrowers — even those with risky, subprime loans — get back on their feet. But nearly a year into the lending crisis, more people than ever are losing their homes.

A record 1.1 million homes were in foreclosure at the end of March, according to data released last week by the Mortgage Bankers Association, and almost 3 million more loans were in default.

The situation is better in Tennessee, but, like that in the country as a whole, it is growing worse. In this state, about 13,000 borrowers were in foreclosure, 1.5 percent of all loans here.

Among those who went through foreclosure this winter was Paradis, a 52-year-old, out-of-work machinist whose wife has a chronic kidney problem and who says he still suffers from long-term memory loss as a result of military service during the Vietnam War.

The complex situation he describes — supported by court documents, deeds and other correspondence — is like those faced by hundreds, if not thousands, of borrowers in Middle Tennessee, credit counselors say.

For years, Paradis has tried to sort out new terms for his loan. But now his home, at least in deed, belongs to a bank.

"Right now, what is making this whole problem more magnified is the lack of communication," said Johnny Cantrell, chief operating officer of Consumer Credit Counseling Services, a nonprofit that advises struggling borrowers in eight states, including Tennessee. "This would not have happened 20 years ago."

Lenders, like borrowers, are dealing with an unprecedented rise in failing mortgages. After hitting historically low levels in 2006, default and foreclosure rates have risen continuously over the last two

years.

The increase is driven, in large part, by adjustable-rate subprime mortgages such as Paradis' loan. During the peak of the housing boom in 2005 and early 2006, millions of these mortgages were made to people with poor credit, often with low introductory interest rates that would expire after two or three years.

Many subprime borrowers have said that mortgage brokers and bankers led them to believe they would be able to refinance at favorable interest rates when the introductory period ended. But now they can't, and they're being forced to make house payments that are hundreds of dollars higher than they have budgeted.

That is driving up foreclosure rates across the country.

The Bush administration has urged lenders to adjust mortgage terms voluntarily to ease the burden on borrowers. With home prices falling in much of the country, lenders have said they stand to lose more money by taking possession of homes than by setting new terms.

But critics have said the growing complexity of the lending industry — where often one bank will originate a loan, another will buy it and a third will service it — is making workouts hard to accomplish.

Servicers may collect more in fees by starting a foreclosure than they get by modifying loan terms, said Adam Levitin, a professor at the Georgetown University Law Center who specializes in bankruptcy and corporate law. That gives them an incentive to get tough with borrowers.

"Ultimately, the lenders do much worse in foreclosure than with a modification, but that's not the servicers' situation," he said. "We say this cliché that no one benefits from a foreclosure, but the truth is some parties benefit more than others."

## Loan troubled from start

Paradis' problems began soon after he purchased his home on Walker Road near the Davidson County line in the fall of 2003.

Unhappy with the terms of a loan he had at closing, Paradis refinanced in January 2004 by borrowing \$100,000 from Ameriquest Mortgage Co., then one of the nation's top subprime lenders.

The loan carried a two-year introductory interest rate of 7.5 percent, according to a deed filed in Robertson County. Paradis said he was told he would be able to refinance at an even lower rate, 5.5 percent, when the introductory period expired.

At about \$700 a month, Paradis' payments to Ameriquest were manageable. He thought they would become only more so after two years, he said.

"I had planned to buy myself a new motorcycle."

Besides his original mortgage, the Ameriquest loan was supposed to pay off another side debt, a \$4,752 loan for home repairs to another firm called HFC. That's where his troubles with the company began, he said.

Instead, the money was diverted to his mother-in-law, who had received a judgment for \$6,840, according to court documents. That judgment had been erroneously attached as a lien on the house, Paradis believes, and he said he was advised at closing that it would not affect the loan.

When HFC continued to demand repayment, Paradis contacted Ameriquest to find out why it had not been paid. The company explained that the lien took precedent over all other debts and that it had to be cleared first.

## Complications deepen

Then Ameriquest began to run into trouble. In early 2006, the company agreed to a \$325 million settlement with officials in 49 states and the District of Columbia to resolve accusations that it was engaging in predatory lending.

One allegation was that the company made false promises to borrowers similar to the assurance Paradis received that he would be able to refinance easily and cheaply. Paradis would eventually receive a \$1,200 payment from Ameriquest, although the company did not admit wrongdoing in the settlement.

Still, Paradis believed Ameriquest was responsible for the debt to HFC. He demanded the firm pay off HFC.

While Paradis was trying to win that argument, Ameriquest sold his mortgage to another company, Washington Mutual.

Then, Ameriquest itself got out of the lending business. In September 2007, the company's loan-servicing business was sold to Citi Residential Lending, a subsidiary of the bank Citigroup.

By that time, Paradis' mortgage payments had climbed to about \$1,000 a month, according to statements he provided. As of last October, Paradis owed nearly \$2,500 in payments and penalties, and his interest rate had climbed to more than 11 percent.

Paradis said he asked Citigroup to adjust the terms, and he asked the company for legal documents supporting the loan. He was sent three different settlement statements. Only one had his signature, and it showed HFC as having been paid off, something that even Ameriquest acknowledged had never taken place.

(An HFC spokesman verified last week that the company had never received payment.)

Because of the discrepancies, bank officials told Paradis that the mortgage was not valid, he said. But in December, foreclosure proceedings against him were begun nonetheless.

His house was auctioned in February. WM Specialty Mortgage, a subsidiary of mortgage holder Washington Mutual, bought the property.

## Efforts to help abound

Paradis' situation shows the risks of losing a home in foreclosure, even though the lending industry says it is doing more than ever to help people save their homes.

Last July, a coalition of mortgage banks formed an organization, Hope Now, to coordinate that effort. The group said it had helped 1.6 million borrowers avoid foreclosure as of the end of April.

"It's changing daily," said Rod Williams, director of housing services for Woodbine Community Organization. "But in general, you're seeing more flexibility in workout options."

The state government also has been trying to get ahead of foreclosures. Since fall, the Tennessee

Housing Development Agency has sent letters to nearly 4,600 households with adjustable-rate mortgages warning them that their rates were about to increase and directing them to counseling services. The agency also has trained counselors to work with struggling borrowers, and agreed to pay for the cost of sessions.

Its efforts have not prevented foreclosures in the state from rising. But they have kept the problem from growing as bad as it could have, said Ted Fellman, the agency's executive director.

"The economy is struggling, unemployment is up, and there are other factors that are starting to come into play," Fellman said. "Every foreclosure is unfortunate, but if you look at it overall, maybe the fact that we're not growing as much is an indication that some of these things are paying off."

Paradis' situation stretches back four years, before groups such as Hope Now and THDA started to get involved. He has not used either program and, apart from hiring an attorney for a while, has tried to work out the situation by himself.

Still, some of the difficulties he has faced in dealing with the large banks that originate, buy, sell and service mortgages are not unusual, observers said.

"This is a very complex issue," Fellman said. "Lender by lender, everybody's taking a different attitude. Some want to see the loans continue, but others are being very hardnosed. Short of Congress or anybody telling them they have to (alter terms), it's a market-driven process."

## Banks say they try

A spokeswoman for Washington Mutual referred question about Paradis' situation to Citigroup, which said it could not comment, citing confidentiality rules that prevent the lender from speaking about specific clients without their permission in writing.

In general, though, the company "aggressively" tries to help distressed borrowers, a spokesman said. For every foreclosure Citigroup is involved in, four struggling homeowners are able to renegotiate their terms, he added.

Paradis' case is complicated by the dispute with Ameriquest over the lien. But many of the problems he described, including being given contradictory information and having trouble tracking down people authorized to take action, crop up frequently as borrowers and lenders try to sort out the subprime jam, said observers.

"They're kind of overwhelmed," Cantrell said. "And when you try to contact the lender on your statement, you can't find anybody that's willing to talk to them and is able to talk to you."

The situation is most difficult when, as in Paradis' case, homeowners try to renegotiate on their own. Struggling borrowers, many of whom weren't well informed about their loans at the outset, have little success renegotiating terms.

Credit counselors seem to fare much better.

"It's just human nature," Fellman said. "You would rather deal with one person or a handful of people that have already done some preliminary work and know what they're doing."

"Everybody should have the right to talk to the person who holds their mortgage, but they should understand why they may not have as much success."

## Paradis continues to fight

Legally, Paradis has lost his home, but he continues to fight.

He says the banks are guilty of fraud for not following through on the promise of a fixed-rate mortgage that he says was made four years ago.

This spring, he filed a suit in Robertson County Circuit Court against WM Specialty Mortgage, contesting the foreclosure and asking for damages. He is representing himself but is trying to raise money to hire an attorney.

The mortgage company, for its part, has asked that the case be dismissed. Paradis is living illegally in the home, an attorney for the company says in a recent legal filing. If anything, the company says, he should pay rent for not moving out.

Paradis' suit is set to be heard later this month.

The solution, he said, is for the banks to do what they promised they would.

"From the first day until now, it's been like this," he said. "They're saying, 'We can fix this.' But nobody's ever offered me a fixed-rate mortgage."

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