

Attorney general sues HSBC over foreclosures

HSBC's mortgage operations center at Walden Avenue and Dick Road in Depew. (Buffalo News file photo)

By **Tom Precious** | News Albany Bureau | [@TomPreciousALB](#)

on June 4, 2013 - 12:01 AM

, updated June 4, 2013 at 3:59 PM

ALBANY – Thousands of New Yorkers have likely been denied a better chance to get their homes out from under foreclosure by HSBC Bank USA and its Depew mortgage operations facility, Attorney General Eric Schneiderman is charging in a new lawsuit.

The legal action, to be filed today in State Supreme Court in Erie County and to be unveiled by the attorney general in a morning news conference in Buffalo, accuses the banking giant of illegally ignoring a state law designed to get homeowners and banks into settlement talks to resolve foreclosure cases.

“Put simply,” according to the lawsuit obtained Monday by The Buffalo News, HSBC’s “illegal business practices make it more likely that homeowners will unnecessarily lose their homes.”

The attorney general’s Buffalo field office found more than 200 cases just in Erie County in which the bank ignored a state law to move delinquent mortgage holders into settlement talks to avoid foreclosure. In nine cases, HSBC filed required paperwork more than 900 days late.

At issue is a state law that requires lenders to file a “request for judicial intervention” when they sue a homeowner and to notify a county clerk of the legal action. That intervention filing then is supposed to jump-start a settlement conference – within 60 days – to try to resolve the homeowner’s financial issue before moving to final foreclosure.

But Schneiderman said an Office of Court Administration report last year found 25,000 New York homeowners are in a “shadow docket,” in which a lender has begun foreclosure proceedings without going through the process.

“For homeowners facing foreclosure, time is their greatest enemy. Every day spent waiting for a settlement conference is a day that the lender piles on additional interest fees and penalties, and the homeowner falls further behind,” he stated. I am committed to doing everything I can to stand up for New Yorkers who are trapped in the ‘shadow docket’ and denied their right to fight for their homes.”

Schneiderman’s investigators looked at HSBC foreclosure filings in four counties, including Erie, Monroe, Suffolk and the Bronx; two-thirds of HSBC’s alleged illegal failure to follow the proper paperwork procedures occurred in Erie County in that examination.

The lawsuit is being filed against HSBC Bank USA and HSBC Mortgage Corp.

The lawsuit seeks 10 separate orders of relief, including asking a judge to force HSBC to follow the state notification law and to waive all additional interest and other charges levied on homeowners who weren't notified of their settlement rights.

The suit uses the case of Rebecca Karm of Erie County, whose medical problems and loss of job led to a foreclosure action. HSBC, the lawsuit says, filed proof of service with the county clerk Nov. 12, 2010, but it did not notify the courts – to begin the settlement process – until June 8, 2012. The Western New York Law Center said the delay rang up \$23,000 in additional fees to her loan balance than she would have owed if she been gone through a settlement process as state law provides.

Schneiderman warned of actions against other lenders.

“Although identifying these cases takes significant resources, my office will continue to bring these types of cases until every homeowner in the shadow docket receives the relief they are legally entitled to,” the attorney general said.

RELATED LINKS

- **PDF**

[HSBC Verified Petition](#)

- **PDF**

[HSBC Morrissey Affirmation](#)

- **PDF**

[HSBC Gathings Affirmation](#)

- **PDF**

[HSBC Memo of Law](#)

- **PDF**

[HSBC Order to Show Cause](#)