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### Adoption of MERS System, Push for Passage of House Bill

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The city of Los Angeles joined the commonwealths of Virginia and Massachusetts, and the state of Connecticut, in accepting the MERS System as an alternative to the city's registry of foreclosed properties and property preservation contacts for vacant properties.

Many law enforcement agencies and municipalities already use the MERS System on an informal basis to find a loan's servicer and identify the companies responsible for maintaining vacant properties in their area, according to R.K. Arnold, president and CEO of MERSCORP Inc. in Reston, Va.

"By formally allowing lenders and property preservation companies to use the MERS System as a suitable location to store this information, the city of Los Angeles can save money and the time it takes to find the data," Arnold said.

Current MERS members can use the system to register the identity of the property preservation company responsible for maintaining vacant properties, which are frequently in foreclosure. The system can track both residential and commercial properties.

"Maintaining residential vacant properties in foreclosure is important to prevent blight and to protect property values," said Doug Guthrie, general manager of the Los Angeles Housing Department.

"We're able to see these benefits more quickly while saving on the city budget by partnering with MERS, whose system is immediately available and already in use by many property preservation companies."

MERS was created by the real estate finance industry to streamline the mortgage process by using electronic commerce to eliminate paper. The company operates a database that tracks loans as they move through the mortgage banking system.

Because vacant homes "hurt everyone," representatives from Attorneys' Title Guaranty Fund Inc., a title insurance company based in Chicago, are pressing for the passage of House Bill 5055.

HB 5055 was introduced in June with the primary purpose of clarifying existing law that the plaintiff (banks or mortgage lenders) in a foreclosure action is allowed to select who conducts the foreclosure sale—the official (such as a sheriff) or a third party (such as a private seller).

ATG says that the issue "of greatest importance" with the bill isn't sheriff revenue. Instead, it's about processing the mass quantity of foreclosed homes "in a responsible, efficient and cost-effective manner."

Doing so helps to ensure foreclosed properties that are already subject to a judgment order clear the system and don't unnecessarily wait for months to be auctioned.

"When homes are in limbo, they can become vacant and blight the surrounding communities," stated Peter Birnbaum, president of Attorneys' Title Guaranty Fund.

"The big-picture issue is the positive impact this bill will have on communities besieged by mounting foreclosures and the rights of foreclosure litigants. This bill is intended to add efficiencies to a woefully inefficient foreclosure process. The bill would benefit distressed homeowners who have to pay these costs and the communities affected by vacant homes and the foreclosure crisis."

Mitch Lieberman, real estate attorney and partner with Noonan and Lieberman Ltd., added, "The revenue sheriffs gain from conducting foreclosure sales does not make up for the damage communities suffer by having a backlog of foreclosed properties on their books and in their neighborhoods."

In Kane County, Ill., where the courts appoint only the sheriff, sales are conducted just once a week. In that county today, it takes eight or nine months to schedule a sale, even when the redemption periods have been waived or have expired.

During those nine months, foreclosed properties can often become vacated, fall into disrepair, become havens for gang activity and remain off the market.

"These communities become blighted and neighborhood stabilization is delayed," said Birnbaum. "In counties like Cook, where private selling officers are regularly appointed, sales are conducted daily and regularly occur within 30 days of the judgment when the redemption periods have been waived or are expired."

ATG believes private selling officers provide value and efficiency, often conducting "thousands of sales every day."

The bill "is not far reaching" and does not go beyond foreclosure auctions, added ATG. The impact of the bill is limited solely to foreclosure auctions.

"Nothing in the bill intends to replace the sheriff in handling evictions. Nothing in the bill impacts the sheriff's right to handle evictions. Additionally, this bill does not confer a monopoly on private selling officers," Birnbaum added. "It does, however, retain the choice of selling officer for the party bringing the action, the lender."