

Coakley steps up probe into foreclosure fraud

Virginia-based firm is focus of new action

By Jenifer B. McKim

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Massachusetts Attorney General Martha Coakley is beefing up her investigation into foreclosure fraud, targeting a powerful lender-created company in Virginia that claims to be the official owner of tens of millions of mortgages nationwide.

Yesterday, Coakley said she will ask county registers to provide information to see if Mortgage Electronic Registration Systems Inc., known as MERS, is violating Massachusetts laws related to property seizures. She is concerned that MERS failed to pay government fees as well as "impaired the integrity" of the state recording system by failing to doc-

ument loan transfers.

Coakley also said she would not agree to releasing MERS from any liability in talks between government regulators and large banks to settle allegations of sloppy and fraudulent mortgage-related practices. State and federal regulators launched the probe last year after some bank representatives, now known as "robosigners," admitted to signing thousands of mortgage-related legal documents without accurately reviewing them.

"We want to be clear we are not prepared to give a release of liability on any broad scope of MERS issues," she said. "We intend to complete the investigation."

Coakley joins a growing number of real estate attorneys, judges, and consumer advocates voicing concerns

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Coakley intensifies foreclosure probe

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about MERS, a company created in the 1990s by major US lenders to reduce paperwork and save money.

The company oversees a database of 32 million active mortgages, about 60 percent of the loans in the United States. Because it purports to be the legal owner of loans in its database, company officials say they don't need to record every loan transfer between investors in a county registry of deeds.

Janis L. Smith, vice president of corporate communications for MERS, said the company will cooperate with the probe. "The use of MERS has been litigated in Massachusetts courts, and judges have upheld the legality of the MERS business model in the commonwealth," she said.

Coakley spoke yesterday after releasing a letter she sent to the Massachusetts Registers of Deeds Association. She agreed to meet with the association to discuss foreclosure-related issues, including "MERS, the filing of false or misleading documents with registries, and other mat-

ters." She set a meeting for Aug. 11.

The association contacted Coakley after issues were brought up by John L. O'Brien, register of deeds for the Southern Essex District Registry of Deeds in Salem. In June, O'Brien called his office a "crime scene" after releasing an audit alleging that hundreds of mortgage-related documents were invalid or fraudulent.

Last year, O'Brien asked Coakley to investigate MERS, saying that the company owes Essex County more than \$22 million because it failed to record mortgage transfers locally, thus bypassing a \$75 fee per transaction.

O'Brien said he was thrilled to hear that Coakley was intensifying her investigation.

"Today she sends a message loud and clear. At least public officials in Massachusetts are going to hold them accountable for their actions," he said. "It's a great day for consumers and everyone in the state."

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