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Miami-Dade clerk of courts sues Fannie, Freddie over doc stamps

Miami-Dade Clerk of Courts Harvey Ruvlin claims Fannie and Freddie failed to pay taxes on real estate transfers after they claimed to be exempt from paying the tax.

Steve Plunkett

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Miami-Dade Clerk of Courts Harvey Ruvlin has sued Fannie Mae and Freddie Mac, claiming the two federally chartered lenders are improperly skipping tax payments on real estate transfers.

The taxes, commonly called documentary stamps, equal 60 cents per \$100 of real estate value plus a 45-cent per \$100 surtax in Miami-Dade on properties that are not single-family homes. Other Florida counties collect 70 cents per \$100 on residences and businesses alike.

The complaint said Fannie Mae, the Federal National Mortgage Association, and Freddie Mac, the Federal Home Loan Mortgage Corp., "have improperly claimed to be exempt" from paying the transfer tax. Also named a defendant is the Federal Housing Finance Agency as conservator for the mortgage giants.

"We're not commenting on these suits," Freddie Mac spokesman Brad German said.

"We don't comment on pending litigation," FHFA spokeswoman Corinne Russell said.

Ruvlin's complaint said the two lenders claim "they are government entities and therefore not subject to transfer tax obligations. On other occasions, defendants have failed to pay the transfer tax based on a claim that they are exempt under federal law."

But those exemptions do not apply, the suit said.

"Fannie Mae and Freddie Mac, while federally chartered, are private corporations and not government entities," the complaint said. "Moreover, defendants' exemption from certain direct taxes does not relieve them from having to pay the transfer tax, which is an excise tax and not a direct tax."

The complaint does not state how much money is at stake, though it notes the total exceeds \$75,000.

“Fannie Mae and Freddie Mac are parties to thousands of real estate transactions, particularly here in South Florida, and they are shirking their responsibility to pay their fair share of transfer taxes,” said Adam Schachter of Gelber Schachter & Greenberg in Miami, the county’s lead counsel in the case.

Documentary stamps finance state environmental programs including Everglades restoration, affordable housing programs and the state’s general fund. Miami-Dade’s surtax goes to its own affordable housing program.

Ruvin’s suit filed Monday in Miami federal court, mirrors one Hernando County’s clerk filed in June in Tampa federal court. Both suits seek class action status for Florida’s 67 counties.

The two government-sponsored enterprises asked Judge Virginia Hernandez-Covington to dismiss the Hernando suit Oct. 11.

Beth Allman, spokeswoman for Florida Court Clerks and Comptrollers, said her group has no immediate plans to join the litigation.

“The association leadership is aware of the issue and monitoring the various suits,” she said.

A federal judge in Detroit ruled in March that Fannie Mae and Freddie Mac are not government entities and cannot claim an exemption from transfer taxes.

Since then, similar suits have been filed in at least 13 other states, Freddie Mac said in a quarterly report to the Securities and Exchange Commission.

At least one crosses state lines, naming as plaintiffs the clerks in Bay County, Florida; Chatham County, Georgia; Beaufort County, South Carolina; and Kenton County, Kentucky.

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