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1 in 5 choosing to default on mortgages though they can pay

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Nearly one in five delinquent mortgages through the first half of 2009 was owned by someone who could afford to pay, but decided defaulting was a smarter financial play.

The decision to walk away, called "strategic default," was studied by crediting agency Experian and international consulting group Oliver Wyman.

Their results were released in a report today that found 19 percent of mortgage defaults nationwide in the beginning of 2009 were strategic. The absolute number, 355,000, was a 53 percent increase from the same period the previous year.

Florida real estate experts were surprised by the 19 percent figure - not because it was so high, but because it was so low.

"Personally, I'd be willing to say it's higher here," said Boca Raton real estate attorney Marlyn Wiener. "Frankly, the majority of the clients who come into my office are strategically defaulting."

Today's report defined strategic defaulters as borrowers who miss six consecutive mortgage payments without missing multiple payments on other debt, such as car or credit card payments.

The theory is it's more financially savvy in the long run to walk away from a devalued home than continue to pay on the mortgage.

The report pointed to Florida and California as states where strategic defaults are concentrated. From 2005 to the first half of 2009, the number of strategic defaulters went up by 52.8 times in Florida, it said.

A May report from the Federal Reserve Board found that when home equity falls below 50 percent, half of mortgage defaults are driven entirely by the lowered value.

About 44.3 percent of homes in Palm Beach, Broward and Miami-Dade counties have loan balances that are higher than the home's worth, according to a report last month by Zillow, a real estate analysis firm.

Today's news on strategic defaults comes as some predict a looming backlash against people who can afford to pay but don't.

Last week, government-sponsored mortgage purchaser Fannie Mae announced it was banning strategic defaulters from getting new loans for seven years.

Wiener said two of her clients recently received calls from collection agencies seeking to collect on a mortgage default.

"It's not like you just send them the keys and it all goes away," said Bill Hardin, director of real estate programs at Florida International University in Miami. "It can come back, and it can come back for a while."

In Florida, lenders are allowed to seek a deficiency claim for five years and have up to 20 years to collect.

Strategic defaulters gamble that banks won't come after them because they are too overwhelmed with foreclosures. But banks are now hiring collection agencies, or even selling the deficiency claims to companies whose profit margin is based on recovering the debt.

Shari Olefson, a Fort Lauderdale attorney and author of Foreclosure Nation, Mortgaging the American Dream, said she blames lawyers for advertising strategic default as an option without telling clients of the repercussions. Wiener said she always tells clients a lender could pursue a deficiency claim.

Olefson also said that strategic defaulters are not just hurting themselves, that entire neighborhoods suffer from depreciated values when a homeowner walks away from a mortgage.

"It's taking advantage of a national crisis," she said. "Some people legitimately are unemployed and can't afford the mortgage and they're not getting any sympathy because of the strategic defaulters."

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