

The MERS Wars Heat Up in Massachusetts

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The gigantic mortgage database owned by the nations largest banks may have run afoul of Massachusetts strict property recordation filing laws, according to the elected Recorder of Deeds for the South Essex district of the state.



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In an exclusive interview with CNBC, [John O'Brien explained](#) why he sent a letter to Massachusetts Attorney General Martha Coakley requesting an investigation into Mortgage Electronic Registrations Systems, Inc.

“It’s a basic issue of fairness. MERS says that if you are a member of their club, you can avoid fees on assignments of mortgages forever. Those are fees that everyone else pays,” O’Brien said. “I’ve never before heard of a private company that has attempted to unilaterally take over such a public function as property recordation. Imagine if someone tried to do this with drivers licenses.”

O’Brien has asked Coakley to investigate whether MERS may owe fees for recordation it has avoided. He is taking this very seriously.

“I intend to pursue this as vigorously as the banks pursue a consumer who doesn’t pay a fee. If you don’t pay them, they’ll pursue you to the gates of Hell,” he said.

O’Brien, who was named “Public Official of the Year in 2000 by the National Association of County Recorders Election Officials and Clerks, is unimpressed by MERS’s official response to his request for an investigation.

“Massachusetts has very clear cut rules. Recordation is not optional. It’s mandatory. It cannot be avoided,” he said.

MERS argues that it is saving recordation offices and homebuyers money by reducing paperwork and fees. It says that homeowners would be “directly or indirectly” responsible for paying the assignment fees if not for MERS.

“Nonsense. There’s no way homebuyers would be responsible for the fees from assigning a mortgage 15 times,” O’Brien said.

He also indicated that his office would be glad to handle the work that MERS says it is doing on his behalf. One of the arguments that proponents like to use in favor of MERS is that local recordation offices are too primitive. [But the Essex County office in Salem](#) has an online electronic property database available free of charge on its website. O'Brien is a two time finalist for the Computerworld Smithsonian innovation award for his work putting the Essex County property records on the web.

O'Brein, who was first elected to office in 1977, is definitely a force with which MERS wishes it did not have to reckon with.

- [A Salem Trial for MERS?](#)