

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

GENESEE COUNTY EMPLOYEES' RETIREMENT ) No. 1:09-cv-00300-JB-KBM  
SYSTEM, et al., On Behalf of Themselves and All )  
Others Similarly Situated, ) CLASS ACTION  
)  
Plaintiffs, )  
)  
vs. )  
)  
THORNBURG MORTGAGE, INC., et al., )  
)  
Defendants. )

**NOTICE OF PENDENCY OF SETTLEMENT OF CLASS ACTION**

**You could receive a payment from a class action settlement if you purchased or otherwise acquired the (i) Series 2006-3 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc. and issued by Thornburg Mortgage Securities Trust 2006-3 during the period June 1, 2006 through June 30, 2009, inclusive; and/or (ii) Series 2006-5 and/or Series 2007-4 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc. and issued by Thornburg Mortgage Securities Trust 2006-5 and Thornburg Mortgage Securities Trust 2007-4 during the period June 1, 2006 through December 10, 2010, inclusive.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- The Settlement will provide \$11,250,000 to pay claims of all persons or entities who purchased or otherwise acquired a beneficial interest in the publicly-offered (i) Series 2006-3 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc. and issued by Thornburg Mortgage Securities Trust 2006-3 during the period June 1, 2006 through June 30, 2009, inclusive; and/or (ii) Series 2006-5 and/or Series 2007-4 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc. and issued by Thornburg Mortgage Securities Trust 2006-5, and Thornburg Mortgage Securities Trust 2007-4 during the period June 1, 2006 through December 10, 2010, inclusive. For an estimate of how much you could receive from this Settlement, see the discussion at Question 9 of this Notice.
- The Settlement resolves a lawsuit claiming that, defendants prepared and issued materially false and misleading Registration Statements, Prospectuses, and Prospectus Supplements in violation of §11, §12(a)(2) and §15 of the Securities Act of 1933 and §58-13B of the New Mexico Securities Act of 1986 in connection with the sale of Thornburg Series 2006-3, 2006-5 and 2007-4 mortgage loan pass-through certificates. All of the defendants deny they did anything wrong.<sup>1</sup> The Settlement avoids costs and risks from continuing the lawsuit, pays money to investors like you, and releases defendants from liability.
- The parties disagree on how much money could have been recovered if investors won at trial.
- Court-appointed Lead Counsel, Robbins Geller Rudman & Dowd LLP, will ask the Court to approve the reimbursement of expenses actually incurred of no more than \$225,000 and an award of attorneys' fees from the Settlement Fund in an amount not to exceed 21% of the Settlement Fund (or \$2.36 million), net of Court-approved expenses, plus interest earned at the same rate and for the same period as earned by the Settlement Fund, for investigating the facts, litigating the case and negotiating the Settlement without payment over the past three years. Lead Counsel also may apply for the reimbursement of expenses of Lead Plaintiffs in accordance with 15 U.S.C. §77z-1(a)(4).
- Your legal rights are affected whether you act or don't act. Read this Notice carefully.

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<sup>1</sup> The Defendants include the following: Greenwich Capital Acceptance, Inc. (n/k/a RBS Acceptance Inc.) and Structured Asset Mortgage Investments II, Inc. (collectively, the "Depositor Defendants"); Robert J. McGinnis, Carol P. Mathis, Joseph N. Walsh III, John C. Anderson, James M. Esposito, Jeffrey L. Verschleiser, Michael B. Nierenberg, Jeffrey Mayer and Thomas F. Marano (collectively, the "Individual Defendants"); and Credit Suisse Securities (USA) LLC, RBS Securities Inc. (f/k/a Greenwich Capital Markets, Inc.), and Banc of America Securities LLC (collectively, the "Underwriter Defendants").

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
<b>Submit a Proof of Claim Form</b>	The only way to get a payment.
<b>Exclude Yourself</b>	Get no payment. This is the only option that allows you to ever bring a lawsuit against Defendants concerning the legal claims at issue in this case.
<b>Object</b>	Write to the Court about why you don't like the Settlement.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the Settlement.
<b>Do Nothing</b>	Get no payment. Give up your rights.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this case must decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and it becomes final. Please be patient.

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## BASIC INFORMATION

### 1. Why did I get this notice package?

You may have purchased or otherwise acquired a beneficial interest in the Series 2006-3, 2006-5 and 2007-4 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc., issued by Thornburg Mortgage Securities Trust 2006-3, Thornburg Mortgage Securities Trust 2006-5, and Thornburg Mortgage Securities Trust 2007-4, and registered and offered pursuant to shelf registration statements, prospectuses, and prospectus supplements filed with the SEC (the "Certificates").

The Court directed that this Notice be sent to you because you have a right to know about a proposed Settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement.

This Notice explains the lawsuit, the Settlement, Settlement Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the District of New Mexico (the "Court"), and the case is known as *Genesee County Employees' Retirement System v. Thornburg Mortgage, Inc.*, No. 1:09-cv-00300-JB-KBM (D.N.M.) (the "Action"). The case is assigned to the Honorable James O. Browning.

### 2. What is this lawsuit about?

The Action claims that Defendants prepared and issued materially false and misleading Registration Statements, Prospectuses, and Prospectus Supplements (collectively, the "Offering Documents") in violation of §11, §12(a)(2) and §15 of the Securities Act of 1933 and §58-13B of the New Mexico Securities Act of 1986 in connection with the sale of the Certificates, including misrepresentations regarding the loan origination and underwriting standards used by the Defendants and their affiliates; the validity of the property appraisals conducted in connection with the issuance of the loans; the loan-to-value ratios of the mortgages; and the credit ratings. All of the Defendants deny they did anything wrong.

### 3. Why is this a class action?

In a class action, one or more people called plaintiffs (in this case Maryland-National Capital Park & Planning Commission Employees' Retirement System and Midwest Operating Engineers Pension Trust Fund, who were appointed by the Court as Lead Plaintiffs) sue on behalf of people who have similar claims. Here, all these people are called the Settlement Class or Settlement Class Members. One court resolves the issues on behalf of all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

### 4. Why is there a settlement?

The Court did not decide in favor of Lead Plaintiffs or Defendants. Instead, both sides agreed to a settlement, thereby avoiding the cost and risk of continued litigation, including a trial and possible appeals. Lead Plaintiffs and their attorneys believe the Settlement is in the best interest of the Settlement Class.

#### WHO IS IN THE SETTLEMENT?

To see if you will receive money from this Settlement, you first have to determine if you are a Settlement Class Member.

### 5. How do I know if I am part of the Settlement?

The Court decided that everyone who fits this description is a Settlement Class Member: all purchasers or acquirers of the (i) Series 2006-3 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc. and issued by Thornburg Mortgage Securities Trust 2006-3 during the period June 1, 2006 through June 30, 2009, inclusive; and/or (ii) Series 2006-5 and/or Series 2007-4 mortgage loan pass-through certificates sponsored by Thornburg Mortgage Home Loans, Inc. and issued by Thornburg Mortgage Securities Trust 2006-5 and Thornburg Mortgage Securities Trust 2007-4 during the period June 1, 2006 through December 10, 2010, inclusive. Excluded from the Settlement Class are: Defendants, the Covered Trusts, Thornburg and any originator of mortgage loans underlying the Certificates as further defined below and in the Stipulation of Settlement.

The publicly-offered Certificates include:

2006-3 Trust		2006-5 Trust		2007-4 Trust	
<i>Class</i>	<i>CUSIP</i>	<i>Class</i>	<i>CUSIP</i>	<i>Class</i>	<i>CUSIP</i>
A-1	885221AA9	A-1	88522RAA2	1A-1	88522YAA7
A-2	885221AB7	A-2	88522RAB0	2A-1	88522YAB5
A-3	885221AC5	A-X	88522RAC8	3A-1	88522YAC3
A-X	885221AD3	A-R	88522RAD6	3A-2	88522YAN9
A-R	885221AE1	B-1	88522RAE4	A-R	88522YAD1
B-1	885221AF8	B-2	88522RAF1		
B-2	885221AG6	B-3	88522RAG9		
B-3	885221AH4				

#### 6. Are there exceptions to being included?

Yes. Pursuant to an Order by the U.S. District Court for the District of New Mexico, you are **not** a Settlement Class Member if you are a Defendant (see Page 1, footnote 1), a Covered Trust, Thornburg or any originator of mortgage loans underlying the Certificates, as well as each and all of the foregoing person's respective officers, affiliates, and directors at all relevant times, members of their immediate families, and their legal representatives, heirs, successors, or assigns and any entity in which such persons have or had a controlling interest, and any Person who timely and validly seeks exclusion from the Settlement Class.

#### 7. I'm still not sure if I am included.

If you are still not sure if you are included, you can ask for free help. You can call 1-877-282-8766 or visit [www.gilardi.com](http://www.gilardi.com) for more information. Or you can fill out and return the Proof of Claim form described in Question 10 to see if you qualify.

### THE SETTLEMENT BENEFITS – WHAT YOU GET

#### 8. What does the Settlement provide?

Defendants have agreed to create a \$11,250,000 fund to be divided on a *pro rata* basis among all Settlement Class Members who send in a valid claim form, after payment of the costs and expenses reasonably and actually incurred in connection with providing this Notice to the Settlement Class, locating Settlement Class Members, soliciting claims, assisting with the filing of claims, and paying escrow fees and costs, if any (including any taxes).

#### 9. How much will my payment be?

Your share of the fund will depend on the amount of valid claims submitted, the amount of Certificates you purchased or acquired, whether you sold your Certificates, and at what price you sold your Certificates. Here's how it works:

- **Series 2006-3 Trust Certificates:** For the 2006-3 Class A-1, Class A-2 and Class A-3 Certificates purchased from June 1, 2006 through June 30, 2009, and sold prior to, or disposed of in the June 2009 Mandatory Auction, the Recognized Loss or Gain is:

**Original Investment Amount**  
**minus Principal Payments Received**  
**minus Sale Proceeds**

For Certificates disposed of in the June 2009 Mandatory Auction, the Sale Price is 100. Please note that the 2006-3 Class B-1, Class B-2 and Class B-3 Certificates will not be entitled to a recovery as all of these Certificates were purchased and owned by Thornburg Mortgage, Inc. prior to the filing of this lawsuit. Please also note that the 2006-3 Class A-X and A-R Certificates will not be entitled to a recovery as these were interest only or residual Certificates.

For example, if you purchased \$1,000,000 worth of the 2006-3 Trust Class A-1 Certificates before June 2009, received \$800,000 in Principal Payments, and sold your remaining Certificates for \$100,000 before the June 2009 Mandatory Auction, your Recognized Loss would be \$100,000.

- **Series 2006-5 Trust Certificates:** For the 2006-5 Class A-1 and Class A-2 Certificates purchased from June 1, 2006 through December 10, 2010, and sold prior to, or disposed of in the August 2011 Mandatory Auction, the Recognized Loss or Gain is:

**Original Investment Amount**  
**minus Principal Payments Received**  
**minus Sale Proceeds**

Questions? Call toll free 1-877-282-8766 or visit [www.gilardi.com](http://www.gilardi.com)

For Certificates disposed of in the August 2011 Mandatory Auction, the Sale Price is 100. Please note that the 2006-5 Class B-1, Class B-2 and Class B-3 Certificates will not be entitled to a recovery as all of these Certificates were purchased and owned by Thornburg Mortgage, Inc. prior to the filing of this lawsuit. Please also note that the 2006-5 Class A-X and A-R Certificates will not be entitled to a recovery as these were interest only or residual Certificates.

For example, if you purchased \$1,000,000 worth of the 2006-5 Trust Class A-1 Certificates before December 10, 2010, received \$800,000 in Principal Payments, and sold your remaining Certificates for \$100,000 before the August 2011 Mandatory Auction, your Recognized Loss would be \$100,000.

- **Series 2007-4 Trust Certificates:** For the 2007-4 Class 1A-1, Class 2A-1, Class 3A-1 and Class 3A-2 Certificates purchased from June 1, 2006 through December 10, 2010, and:
  - a. sold before the Measurement Date (September 25, 2012), the Recognized Loss or Gain is:
    - Original Investment Amount**
    - minus Principal Payments Received**
    - minus Sale Proceeds**
  - b. not sold before the Measurement Date (September 25, 2012), the Recognized Loss or Gain is:
    - Original Investment Amount**
    - minus Principal Payments Received through the Measurement Date**
    - minus The Value on the Measurement Date**

The Price and Factor for each 2007-4 Certificate on the Measurement Date is as follows:

Certificate	9/25/2012 Factor	9/25/2012 Price
TMST 2007-4 Class 1A-1	0.3229	92.75
TMST 2007-4 Class 2A-1	0.3428	100.00
TMST 2007-4 Class 3A-1	0.3516	100.00
TMST 2007-4 Class 3A-2	0.6208	57.01

If a sale did not result in a complete disposition of the Settlement Class Member's ownership in a particular Certificate (*i.e.*, only a portion of the holdings of a Certificate was sold), then the Recognized Loss or Gain on the remaining portion of the Certificate will be calculated separately. Please also note that the 2007-4 Class A-R Certificates will not be entitled to a recovery as these were residual Certificates.

#### **HOW YOU CAN GET A PAYMENT – SUBMITTING A PROOF OF CLAIM FORM**

##### **10. How can I get a payment?**

To qualify for a payment, you must send in a Proof of Claim form. A Proof of Claim form is enclosed with this Notice. You may also get a Proof of Claim form on the Internet at [www.gilardi.com](http://www.gilardi.com). Read the instructions carefully, fill out the Proof of Claim form, include all the documents the form asks for, sign it, and mail it in the enclosed envelope postmarked no later than March 26, 2013, to the address listed on the Proof of Claim form.

##### **11. When would I get my payment?**

The Court will hold a hearing on February 25, 2013 to decide whether to approve the Settlement. If the Settlement is approved and becomes final, it will take several months for all the Proof of Claim forms to be processed.

##### **12. What am I giving up to get a payment or stay in the Settlement Class?**

Unless you exclude yourself, you are staying in the Settlement Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you. If you don't exclude yourself (*i.e.*, you participate in the Settlement), you will agree to a release of claims, which describes exactly the legal claims that you give up if you get settlement benefits.

#### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want a payment from this Settlement, but you want to keep the right to sue or continue to sue Defendants on your own about the legal issues in this case, then you must take steps to get out of the Settlement Class. This is called "excluding" yourself – referred to as "opting out" of the Settlement Class.

##### **13. How do I get out of the Settlement?**

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Genesee County Employees' Retirement System v. Thornburg Mortgage, Inc.*, No. 1:09-cv-00300-JB-KBM. Be sure to include the

**Questions? Call toll free 1-877-282-8766 or visit [www.gilardi.com](http://www.gilardi.com)**

following information: (a) the name, address, and telephone number of the Person requesting exclusion; and (b) a statement that the Person wishes to be excluded from the Settlement Class. **You must mail your exclusion request postmarked no later than February 11, 2013** to:

Thornburg Mortgage-Backed Securities Litigation Exclusions  
Claims Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 5100  
Larkspur, CA 94977-5100

If you ask to be excluded, you will not receive any settlement payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Defendants in the future.

**14. If I don't exclude myself, can I sue Defendants for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from **this** Settlement Class to continue your own lawsuit. Remember, **the exclusion deadline is February 11, 2013**.

**15. If I exclude myself, can I get money from this Settlement?**

No. If you exclude yourself, do not send in a Proof of Claim form to ask for any money. But you may sue, continue to sue, or be part of a different lawsuit against Defendants.

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in this case?**

Yes. The Court previously appointed Robbins Geller Rudman & Dowd LLP to represent you and other Settlement Class Members. These lawyers are called Lead Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will the lawyers be paid?**

In the three years that this Action has been pending, Lead Counsel have not been paid for their services on behalf of Lead Plaintiffs and the Settlement Class, nor for their substantial expenses. The fee requested is to compensate Lead Counsel for their work investigating the facts, litigating the case over the past three years, and negotiating the Settlement.

Lead Counsel will ask the Court to approve the reimbursement of expenses actually incurred of no more than \$225,000 and a payment of no more than 21% of the Settlement Fund (or \$2.36 million) for attorneys' fees. Lead Counsel will also seek the Court's approval to award the Midwest Operating Engineers Pension Trust Fund \$9,808 as reasonable costs and expenses directly relating to the representation of the Settlement Class. The Court may award less than these amounts. Defendants have agreed not to oppose these fees and expenses.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or some part of it.

**18. How do I tell the Court that I don't like the Settlement?**

If you are a Settlement Class Member, you can object to the Settlement if you don't like it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the Settlement in *Genesee County Employees' Retirement System v. Thornburg Mortgage, Inc.*, No. 1:09-cv-00300-JB-KBM. Be sure to include your name, address, telephone number, your signature, the Certificates you purchased or acquired, and the reason(s) why you object to the Settlement. **Mail the objection to the Court, Lead Counsel and Defense Counsel in time for it to be received no later than February 11, 2013:**

## **COURT**

Clerk of the Court  
U.S. DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO  
United States Courthouse  
333 Lomas Boulevard N.W.  
Suite 270  
Albuquerque, NM 87102

## **LEAD COUNSEL**

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## **DEFENSE COUNSEL**

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New York, NY 10166

Ronald D. Lefton  
GREENBERG TRAUIG, LLP  
200 Park Avenue  
New York, NY 10166

Joel C. Haims  
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1290 Avenue of the Americas  
New York, NY 10104

Dani R. James  
KRAMER LEVIN NAFTALIS &  
FRANKEL LLP  
1177 Avenue of the Americas  
New York, NY 10036

### **19. What's the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class.

Excluding yourself is telling the Court that you don't want to be paid and don't want to release any claims you think you may have against Defendants. If you exclude yourself, you can't object to the Settlement because it won't affect you.

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

### **20. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Settlement hearing at 9:00 a.m., on February 25, 2013, before the Honorable James O. Browning at the U.S. District Court for the District of New Mexico, 333 Lomas Boulevard N.W., Albuquerque, New Mexico. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court will also consider whether to approve Lead Counsel's fee and expense request and whether to approve a service award request by the Lead Plaintiff. We do not know how long these decisions will take. You should be aware that the Court may change the date and time of the hearing. If you want to come to the hearing, you should check with the Court or Lead Counsel to be sure that the date and/or time has not changed.

### **21. Do I have to come to the hearing?**

No. Lead Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you submitted your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

**22. May I speak at the hearing?**

You may ask the Court for permission to speak at the Settlement hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Genesee County Employees' Retirement System v. Thornburg Mortgage, Inc.*, No. 1:09-cv-00300 (D.N.M.)." Be sure to include your name, address, telephone number, the Certificates you purchased or acquired, and your signature. **Your notice of intention to appear must be received no later than February 11, 2013, by the Clerk of the Court, Lead Counsel, and one of Defendants' Counsel**, at the addresses listed above in Question 18.

You cannot speak at the hearing if you excluded yourself.

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you do nothing, you'll get no money from the Settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants covering the legal claims at issue in this case ever again.

**GETTING MORE INFORMATION**

**24. Are there more details about the Settlement?**

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Settlement dated as of December 3, 2012 (the "Stipulation"). You can get a copy of the Stipulation during business hours at the Clerk of the Court, U.S. District Court for the District of New Mexico, United States Courthouse, 333 Lomas Boulevard N.W., Suite 270, Albuquerque, New Mexico, or by calling or writing Rick Nelson, c/o Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, toll free at 1-800-449-4900. The Stipulation may also be downloaded at [www.gilardi.com](http://www.gilardi.com).

**25. How do I get more information?**

You can call 1-877-282-8766 or write to Rick Nelson, c/o Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101. Or you can visit [www.gilardi.com](http://www.gilardi.com).

***PLEASE DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE***

DATED: December 10, 2012

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO