

FANNIE AND FREDDIE NEAR A DEAL WITH TITLE INDUSTRY

As I noted in my last post on the move, led by Fidelity National, to require banks to warrant against “incompetent or erroneous affidavit testimony or documentation,” the move was largely about getting Fannie and Freddie on board and with them making this a standard practice in the industry.

So I’m not surprised by the report that that’s precisely what is happening. But I do find the description of Fannie and Freddie’s role in this process to be noteworthy.

The behind-the-scenes work illustrates how, as banks prepare to resume home repossessions, few entities have a greater interest in helping to put the foreclosure train back on track than Fannie and Freddie, which together own or guarantee half of all U.S. mortgages.

“They’re in a position to pursue good, straight, and solid answers. In that way, they play a quasi-regulatory role,” said Kurt Pfotenhauer, chief executive of the American Land Title Association, a trade group.

[snip]

Still, the foreclosure-document crisis is raising an age-old question that has dogged the mortgage firms: Should they play the role of regulator, or business partner, with the mortgage originators and servicers that are their customers?

On one hand, Fannie and Freddie need to make sure foreclosures are proceeding properly. But on the other hand, they want to move the process along as fast as possible because each day that they

can't repossess homes, they lose more money and ring up a bigger bill for taxpayers.

"Given their public purpose and the special advantages they have in the marketplace, Fannie and Freddie should be a model to the whole industry of how to make sure the foreclosure process is working properly," said Julia Gordon, a senior policy counsel at the Center for Responsible Lending.

But the firms' regulator, and the companies themselves, say that the onus is on servicers to fix any problems and vouch for the quality of their foreclosure processes.

Fannie Mae "is not in a position to be the determining body as to whether servicers are putting processes in place that comply with the law," a company spokeswoman said.

This is basically the government—as the owner and guarantor of Fannie and Freddie—basically saying the banks should just fix their own practices. No wonder that line sounds so similar to what we're hearing from the Obama Administration.

And couple this disinterested stance toward servicer problems with the news that the government has known, since sometime after May, that there was a,

significant difference in the performance of servicers, and in particular, information that shows us there is not compliance with FHA rules and regulations around loss mitigation.

Yet it has not done anything about the servicers that it knows (but will not name) which have not followed required practices to try to keep people in their homes.

Note too the reference in the linked article to Fannie's institution of fines on servicers that didn't churn through their foreclosures in timely fashion.

The past practice of Fannie and Freddie shows they have every intention of keeping foreclosures churning through the system and government regulators appear to have no intention of slowing that churn. Signing this title insurance agreement is part of that same process.

We, the taxpayers, have become the owners of a system that churns inexorably on to evict us from our homes.