How to fix the "Mortgage Crisis"
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The dissertation below provides a proposed comprehensive solution to address present problems with residential mortgage lending, "private mortgage insurance", the "GSEs", and the "crisis of confidence" that investors have in mortgage-backed securities, a comprehensive solution that can be implemented immediately without new "enabling" legislation.

As to what the "mortgage crisis" is, if anything it's a "crisis of confidence". The reason I say a "crisis of confidence" is that while many may not trust the parties "driving" everything, the borrowers, even more critical is the lack of confidence that borrowers, the government, and most importantly, investors, now have in lenders. As much as "borrowing" standards have "tightened" up, there have been far more new laws and regulations put in place to regulate and govern the activities and conduct of lenders. "Tightening" is a highly descriptive term, as it creates a visualization of a "noose" around the neck, a perfect analogy of what has happened to credit, borrowing and related investment activity in general, as well as the economy. The terrible thing is that in regards to all the participants in the "lynching mob," no one has yet identified or even admitted that the real reason for the entire "mortgage crisis", is that our lending and "mortgage" system is broken. The true problem at the root of everything is the method by which money is lent on real property. While many investors curse how the banks "lied" to them or failed to disclose to them necessary information or identify "conflicts of interest," and the banks likewise blame borrowers for "lying" to them (thus the origin of the term "liars loans"), the real issue is not the "lying" but that everyone set themselves up to be "victimized" and controlled by any such "lies".

During the height of the "mortgage frenzy" banks were doing their favorite "80/20" loans and would lend 100% of the money needed by the borrower (or close thereto), with the borrower resultantly having little "skin in the game". Banks were assisted by securities "syndication" firms, who would "bundle" and "securitize" the 80% loan-to-"value" first mortgages and sell them to investors. In 70–75% of the cases, banks ended up keeping the 20% loan-to-value second mortgages in their "portfolios", which the banks would then "service" themselves (along with the "bundled" first mortgages) in alter-ego companies that the banks owned. One of the major problems and complications in trying to "salvage" everything through "modifying" loans (with investors even expressing a willingness to do "principal reductions" on the amount owed), was the simple fact that there was a "fox in the hen house," an inherent "conflict of interest" caused by the banks not disclosing that they still owned the second mortgages and were the actual parties servicing all the loans. The banks didn't want to take the financial "hit" on the second mortgages, knowing that the entire situation was going to degenerate into a quagmire of lawsuits and regulatory actions. Even after being "found out" and with the bank's second mortgages either getting "wiped out" in foreclosure suits or voluntarily released to placate investors, in an attempt to salvage their positions banks would sell off the now unsecured second lien position promissory notes to be collected by "high pressure" collection firms.

While commiserating with foreign (and domestic) pension and investment managers that they were "set up" by many of the loan-originating banks, it became readily apparent that the same fund managers didn't do their "homework" in regards to "owner occupied" residential loans which many counted as one of the safest "rated" investments in the world. Specifically in regards to the United States, many had the tendency to look at the USA as a

"homogeneous" entity functioning uniformly, when in actuality it was not, but a multitude of States with differing variables in regards to real estate lending:

- There are "mortgage" States and there are "Deed–of–Trust" States; there are some States that are both!
- Related to the above, there are "title theory" and "lien theory" States – relating to how the States laws view the "perfecting" or "securing" of a lender's security interest in a property as collateral for a loan;
- Correspondingly there are "judicial" and "non-judicial" States – foreclosures either done through and supervised by the Courts or not.

Many of the above "variables" are inter-related and while there are many additional variables, the ones listed above are the main ones. The impact and influence of the different variables is readily apparent in how the non-judicial States have allegedly "recovered" more quickly than judicial States, avoiding the additional variable of clogged, under-funded, court systems.

When investing into "mortgage–backed securities" (known as "MBS" or "RMBS (for residential mortgage–backed securities), it is important to know that everything within the "bundled" or "pooled" loans and accompanying collateral assets are the same. These known values are used to predict how they will perform and more importantly, to know how matters will be handled when they don't perform and borrowers default.

As one can readily see, the lack of "standardization" in the design and manner of "originations", as well as enforcement of the obligation (in addition to the multitude of moving "parts' and parties involved, inherently resulting in the potential for "conflicts of interest" if not properly designed, disclosed, managed, and "compartmentalized" for risk management purposes) was probably the major contributing factor to the "mortgage crisis." Simply put, there are inherent design flaws. The "system" is irreparably broken and needs a complete overhaul.

In fixing the design flaws, as well as trying to "standardize" the loan process, one of the key goals is to instill confidence in the system. A borrower must be confident that if they "perform" and pay their loan in a timely manner that the house will be theirs to own and use. A lender needs to be confident in predicting the "yield" and performance of a loan and their ability to "cure" a default in a timely, predictable manner to try to obtain the yield projected (not possible at present due to "procedural" and time variables in most "judicial" foreclosure States). Said is especially important when making affirmative representations to potential investors if a lender is not going to "portfolio" or keep a loan. For an "investor", who may really be a "syndicator" or "funds manager", the need for confidence is in predictability of return to attract other investors or funds under management. At present within the United States, specifically due to the "systemic" design flaws and legal, regulatory issues, there is a "crisis of confidence" which must be resolved.

So what differentiates this "editorial" from all the other "diatribe" rationalizations of what happened, or how to "fix" things? Without trying to sound egotistical or delirious, I am going to try to humbly suggest that I may have a comprehensive solution (while stated with some "pride of authorship," I fully invite a cooperative "team" effort to "tweak" or perfect the proposal). Being a lawyer, it is perhaps ironic that one of the key things that was identified as needing to be "fixed", especially in regard to predictability and restoring confidence, was

mitigating and minimizing the involvement of the legal/judicial system in default resolution, and how to accomplish said without compromising the borrower or "consumer protection." Any resolution must be balanced and fair for all the multiple parties/"players" in the "system". I have numerous times remarked to others that "probate" proceedings (the legal resolution of a deceased's estate and affairs) are very similar to "foreclosures", as both are title clearance procedures. Hopefully, with the guidance of a Will in probate proceedings, or in the case of a foreclosure, loan and collateral/pledge documents, the Courts facilitate the transfer of assets, many times unfortunately, due to case volume and budgets, not necessarily in a "timely" manner. One thing that everyone tends to forget in lending and investing is the importance to all parties of the ultimate rule of the "time value of money" and again, confidence and predictability in calculating said value. At present, partly because they feel they have been lied to and snookered, private investors are refraining from buying "residential mortgage-backed securities" without a governmental guarantee. As much as 95% of "mortgage" activity involves either direct government lending or "guarantees" or the purchasing, "packaging" or guarantee of "mortgages" by "government supported enterprises" ("GSE's").

How do we restore confidence and predictability, and "fix" this complicated "mess"? Not like a "Gordian Knot", taking a sword to it and hacking away at the "outside" peripherals and "effects" of the flawed design. It must be "fixed" from the inside out – starting with the two basic "players", the "lenders" and "borrowers".

Being mindful of the previous observation made that the United States consists of 50 States (not counting "territories"), and all the different "variables" and "systems", which without "sorting" common-scenically should have made "bundling" and "securitization"/sales almost impossible (if everyone did their homework before buying, not relying upon the integrity of the parties, "guarantees," and "ratings"), the trick is how to effectuate the "fix" in a timely manner without getting bogged down in legislative procedures and time tables, and not be blocked or derailed by parties with "special interests," including those who profit from catastrophes or who want to take advantage of the situation to push their own agendas. In analyzing the basic nature of the relationship between "borrowers" and "lenders", as well as the legal "system", and being cognizant of a basic tenant of trying to insulate and protect home ownership, the focus must be upon the borrower/lender relationship. In many cases it is critically important to understand the need to help stabilize the families occupying said homes (many forget the multitude of "victims" (including children) whose life's and psyches will forever be scarred and influenced by foreclosures and evictions, with significant collateral effects that we will be measuring for decades). While allowing "market forces" to prevail in setting rates (influenced by risk evaluation and competition) and protecting borrowers from "predatory" practices and terms, the "new" system must be simple, transparent, and fair, and predictable in nature (for all parties).

The resultant solution identified and settled upon is almost as old as our legal system itself. Every State of the United States, except Louisiana, (which uses a "Napoleonic Code"–type system), uses essentially a British "common law" based type of legal system. The proposed "solution" is a very special type of trust called a "land trust", an entity where both legal and equitable title are "vested" or held by a trustee, with the "Beneficiaries" controlling and directing the activities of the Trustee, as well as having all the rights and benefits to the use of the property held within the land trust – they just aren't "in title" – a very important point. As previously noted, "foreclosure" is a title clearance and transfer procedure. By using a land trust, as both the title holding entity, as well as the means to "perfect" the

security interest or for the “pledge” of the collateral on a loan, encapsulating and effectively insulating the asset, the need for “title clearance” is eliminated. The reason the title doesn’t have to be cleared is that the title is not in the name of the borrower; the borrower is simply the Beneficiary of the land trust and by law has no legal or equitable interest in the asset of the trust. Because the Borrower has no legal or equitable rights and interests in the direct title to the property, none of the other obligations of or claims against the borrower “attach” to the underlying asset of the trust, thus alleviating the need of parties to be notified and their entitlement, rights and interest to be determined, “cleared”, or litigated, etc., to obtain the release of the asset for disposition to settle any outstanding obligation.

In fact, upon the default of a beneficiary, the underlying asset doesn’t even have to come out of the trust to be “sold” or disposed of, nor does the obligation have to be extinguished. Every time money “moves” there are related “costs”; the cost of solicitation, “packaging”, legal expenses, structuring, servicing (to collect any yield), and finally the liquidation and sale of an underlying “position” (whether direct ownership or “trading” the securities documents related to the property) for money to move on and work again. When a land trust is used as the titleholder (with the underlying property constituting the “corpus” of the trust) and means to secure the collateral of a lender, in the case of a default the money does not have to move on nor does the title have to be “cleared”. If a loan was structured properly, and if the underlying asset was appraised accurately, and there have not been any catastrophic changes in the valuation of the underlying asset (as the lending exercise really becomes an “asset-based” loan activity), there is no reason to “collapse” the loan, you just need to mitigate the interruption in “performance” and obtain another party to pay the loan. Without having to “clear” the title, the obligation, and accordingly the beneficial right and interest in the land trust,, becomes fully assumable and assignable, subject to whatever subjective approval standards that a lender may dictate. While a decision to make a loan may involve a “subjective” decision by a lender as to the character of the borrower and who to make a loan to, a loan should be structured “objectively”, as the fate or future of a borrower should be irrelevant to the security of the loan (with the exception of a catastrophic loss, which casualty insurance is put in place to protect the borrower and lender, or in the case of a land trust lending scenario, the trust).

The ability to assign and assume of a loan becomes manifestly important especially in a society like the United States, where it is estimated parties move every five to seven years (with military personnel moving even more often and, albeit protected by special laws to permit them to get out of lease agreements, they don’t have “corporate re-location” departments to sell or purchase their homes if they desire or are forced to sell). With the use of a land trust–structured lending scenario the “inefficiencies” (and “risks”) of a move may be avoided by both a borrower and lender (while mortgage brokers and appraisers may disagree, and the roles of their professions may evolve, they too will benefit by the new structure, with the ability to sell property with financing in place or a new property being “pre-qualified” for the predominately asset-based lending model). The ability of both a borrower and lender to find a party to purchase a property increases exponentially with financing already in place.

Attempts by the government and private lenders to insure themselves against potential “losses” (in essence the loss of yield and potentially principal, as well as the “inefficiency” of having to foreclose to clear the title of a property and subsequently transfer and dispose of the underlying property that was pledged as collateral on a loan) have resulted in catastrophic losses, with the “private mortgage insurance” market almost collapsing and

many actually failing (the government "guarantee" and "insurance" agencies would have failed but for the tax-payers propping them up). With the decline in property values (in many instances triggered by a lack of financing for purchasers to buy properties) most mortgage insurance programs cover the top 20% of the value of a property (the "riskier" range of any lending activity). In said range there is a significant potential for a loan (or the "subrogation rights" of an insurer) to end up "unsecured" (with many of the "PMI" companies not even bothering to pursue their subrogation rights to offset their losses). A major bone of contention with tax payers has been having to "bail out" not only banks, for making what were perceived as "bad" loans, but the GSE's as well as the government insurance and "guarantee" programs that existed to attract lenders/investors (as maybe already suspected, many of the losses and ancillary "pains" related thereto, could have been avoided or mitigated, and more "loan modifications" accomplished, utilizing a modified version of what is being described herein; previous efforts were made to make the "powers-that-be" aware of the potential of the described program).

With the use of a land trust–based lending scenario the "mortgage insurance"/"guarantee" market would dramatically change, as the present inefficiencies of default resolution would not be experienced, thus significantly reducing the related risks and claims paid. Almost all present "mortgage insurance" and "guarantees" are "absolute" in nature and not "deficiency" guarantees (paying only the actual losses sustained after a default has been resolved), the difference being that in an "absolute" guarantee situation the guarantor pays the insured party (the lender / investor) and assumes their position (through their "subrogation of rights" agreement) and all the headaches of having to deal with the default resolution, including the foreclosure of the borrowers rights and interest, property rehabilitation, maintenance, and "carrying costs" (not small expenses), as well as the sale and disposition of the property. In the use of a land trust based lending scenario, with its ability to be "assigned" and "assumed", both a borrower and lender have a much greater flexibility to resolve any default situations, as they don't have to deal with third-party interests that may have "attached" to the property. Within the proposed 90–120 day "contractual" default resolution period, a borrower (and lender) can actively market a property with "assumable" financing, making said much easier to sell, with a borrower having a significantly better opportunity to potentially recover whatever equity they have in the property. The mutually agreed provisions are contained within the Trust Agreement between all parties---the independent Trustee, the borrower/beneficiary, and the "contingent" beneficiary/lender (who the beneficial interest of the borrower is pledged to and who may become acknowledged by the Trustee as the actual beneficiary after a verification of default, passage of the stipulated period of time, and a continuing default). Correspondingly, with private mortgage insurance companies, as well as the government, using a "deficiency" guarantee model (or the lenders themselves deciding to maintain certain nominal capital reserves to compensate "loss of yield" to a lender/investor to save the expense that they may or may not be able or desire, for regulatory or competitive reasons, to pass on to a borrower (or factoring any relative "loss of yield" into their invest formulas)), insuring or compensating for said "risk" becomes dramatically less expensive (a possible significant advantage to borrowers as well).

The proposed structure of a land trust based lending scenario may be a "70/30" loan-to-value ratio (a further cushion against the potential of an asset valuation decline). Many, if not most parties, don't have 30% to put "down" on a home. While next to "credit qualifying", the requirement of a larger down payment is the other means used by many in an attempt to mitigate the lending risk, both are counter-productive and neither are an indicator of the

quality of the borrower or of the borrowers character and commitment to pay the loan. At present the second mortgage lending market is almost non-existent to assist borrowers in closing that gap between what they may have to put as a down payment on a property and any first lien position loan that they may qualify for. The only parties lending at higher loan–to-value ratios, and assuming a much higher risk exposures, is the government itself through various lending scenarios, where loans are absolutely guaranteed by the government (and the tax-payers) who assume all the risk of default on the underlying loan obligation (and the payment and yield of any "MBS" bonds issued collateralized by said loans).

At this juncture it this appropriate to discuss the potential of revitalizing the second mortgage industry, like the Phoenix from the ashes. Due to their inferior position to a first lien mortgage holder, unless they pay off a first mortgage to "perfect" and protect their second mortgage and assume the rights of the party holding the first lien position holder, a second lien position lender gets wiped out in the "foreclosure" title and rights "clearance" exercise (their promissory note becomes unsecured). Second mortgage lenders must maintain lines of credit (for a fee and cost) or short-term investment positions (which are usually in low-yielding, short-term investments) to provide ready access to funds and liquidity to "take out" or pay off the first lien holder (who hopefully originated their loan properly, otherwise the litigation period, holding the second mortgage default resolution in abeyance, could be protracted), as well as have the funds and resources available to underwrite the legal and related costs of the foreclosure, rehabilitation of the property, etc..

In the case of the use of a land trust lending scenario, in coordinating with the Trustee and the first lien holder, the second mortgage holder may negotiate an "forbearance agreement in regards to acceleration" with the proviso that they make the underlying payments to the first lien holder and make any casualty insurance payments until they find a party to assume the property and begin paying all the loans. The first lien holder just wants their loan paid (by anyone; which correspondingly explains why there are so few loan "accelerations" as long as the first lien holder is being paid) to obtain the yield they negotiated, as well as be assured that the proper casualty insurance is maintained in place to protect against a catastrophic loss ("forced placed" insurance may become obsolete as the "privity of contract" is not between the borrower and the insurance company but between the insurance company and the Trustee, who is required to notify all interested parties if a premium is unpaid). If the borrower finds a party to purchase their beneficial interest, and assume the payment of the underlying obligations, then they receive the benefit of any surplus of "equity" that they may realize (even if negotiated in coordination with all parties, including the Trustee, to be paid and received over time on an installment basis). If there is a second lien holder, and the borrower does not succeed in their efforts, the second lien holder assumes all the duties and obligations of the borrower, and cost and expenses related to the default, until they can find a replacement for the borrower (the first lien holder really does not have to do anything, as all matters are handled by the second lien holder and the Trustee). In the case where the borrower does not, or is unable or incapable of dealing with the situation, and allows the second or first lien holder resolve and "cure" a default, then any costs related thereto are borne by the borrower and deducted from the proceeds of any "sale" of either the property or beneficial interest (thus the borrower is "incentivized" to do it themselves). Also it should be noted and is suggested, that if a borrower cooperates with and follows through with assisting in resolving any default, pursuant to their contractual commitment to do so, that they will have performed according to their contract and no derogatory "credit" information would or should be reported; thus

not penalizing them, or their families, even further in regard to whatever change in circumstances caused them to default. In the case of loss of employment, and having to move to seek new employment and a new place to live, it is especially important that the property and loans related there to be assumable, as well as the title to the property be “insulated” and protected from whatever liens and judgments that a borrower may incur in their name, to provide the potential for “mobility” and recovery, further reinforcing why especially “owner-occupied” situations should be protected and remain inviolate using a land trust – based lending scenario.

In regards to a land trust-based lending scenario, the land trust agreement would grant the right to the Trustee (likely a third-party fiduciary) to evict a borrower if they refused to cooperate and ultimately move from a property in the instance of a continuing default (likely after a stipulated “cure” period of say 120 days). A borrower in some States could try to assert, according to case law, that the non-judicial means (that they previously stipulated to after full disclosure) to resolve a default and eliminate the rights and interest of a borrower/beneficiary is “circumventing” their legal rights and that said is a “mortgage substitute” to side-step existing required foreclosure procedures. While said could occur, the fact that the property was in a trust eliminates the need, difficulty, and time associated with eliminating inferior liens and permits the Court to focus upon the contractual relationship between the lender and borrower. Said course of action is unlikely, as even in the case where there is no equity in the property a purposed amount of “cash for keys” is suggested to be provided for, to not only provide the means for a Borrower and their family to move and obtain a new residence but also to “incentivize” the Borrower to leave the property in a good condition, mitigating property rehabilitation cost and the time related thereto. As a side note, as unfortunately many financially-challenged borrowers came to realize, their ability to challenge the legal or procedural improprieties of a lending situation resulting in a foreclosure, in a non-judicial States that require the posting of a bond to usually file a countersuit, or in judicial States where they truly needed legal representation, was severely limited. With a land trust lending-scenario an efficient and expedient Magistrate review process could be cost-effectively established to review any improprieties in the relationship between a Trustee and Beneficiary/Borrower and Lender/Contingent Beneficiary, again excluding the involvement and need to adjudicate the rights of third-party claimants and creditors.

Correspondingly while the previous focus herein has been upon avoidance of title clearance due to “foreclosure” of a borrower’s rights and interest, another benefit of using a land trust to hold the title to property and effectuate a lending scenario is that while beneficiaries (and Trustee’s, if not a third-party fiduciary entity or institution and just an individual), die, trusts do not. Successors to both the beneficiary and trustee are contractually provided for within the trust agreement, thus probate, the other “title clearing” procedure is avoided (potentially, as most peoples’ residence is their largest “titled” asset, such will take a further significant burden off the Court’s dockets, reducing most probate activity to being “summary” (more procedural and less likely contested) in nature (even insurance and many financial accounts have pre-chosen contractual beneficiary designations).

The use of the land trust based lending scenario permits the pre-qualifying of property utilizing of an asset-based lending model focusing upon the identification, qualification, and appraisal of properties as being worthy of being loaned against. It is less focused upon “subjective”, questionable underwriting and sometimes arbitrary and inaccurate credit reports; we may know or be able to examine the past of a borrower (and a builder), but we

don't know the future or how it will impact a party or know how a party may respond to adversity. Instead, the use of an "objective" standard and means to structure a loan, to try to insulate an asset pledged as collateral as well as the relationship between the borrower and lender from "outside influences" which may derail any lending scenario, will inspire the confidence necessary for not only rating agencies to be able to identify an investment scenario and opportunity as secure and to provide a "grade" as to investment risk, but more importantly will inspire private investors to re-engage and once again be attracted to this new, re-structured, real estate-back lending activity and securities derived therefrom (and correspondingly lend money to builders knowing there is now financing available for people to buy what they are building).

Another significant advantage to adopting the land trust lending scenario, with its ability to provide standardization of origination, and predictability and certainty in regards to dispute resolution and the timetables related thereto, is that the system described will work in any county that correspondingly uses as the foundation of its legal system British common law (said will correspondingly work in many "civil" jurisdictions where they use a "codified" form of law but have adopted a trust concept), albeit it may need to be modified to vest both legal and equitable title in the Trustee of the trust. Said could then correspondingly attract foreign lenders/investors to said "developing" countries, which normally operate limited to the "portfolio capital" they have and don't have the access to the "secondary" markets to bundle, "securitize", and sell their loan packages to provide liquidity and cash flow for growth. By adopting the land trust lending model and "playing" by the rules, and honoring its intrinsic dispute resolution features and borrower and lender protection provisions, capital could be brought in to stimulate growth and significantly improve the standard of living in many countries, while not only expanding and diversifying potential investments markets and opportunities, as well as providing the potential for a superior return on investment. While said return (or interest rate on the money loaned) may decline as the perception and reality of risk exposure declines and competition in the financial markets increase, the increase in the size of the potential market and the collateral growth, as well as the opportunities that are spawned from said activity, will provide a more than fertile ground for further investing and "secondary" market trading profits.

Correspondingly, a new type of hybrid "covered bond" security is envision utilizing the land trust lending-scenario, which centralizes custody and security interest (what the Mortgage Electronic Registration System ("MERS") tried to do; if MERS had served as a Trustee in a land trust lending-scenario there would not been confusion as to its role or as many protracted lawsuits related thereto). Independent loan servicing firms should be utilized as well (without the "conflict of interest' where many of the servicing firms were owned by the same institutions/banks originating, "bundling" the first lien position loans and selling them with help of security brokerage firms, and in the majority of cases said institutions/banks keeping the inferior "second" lien position loans in their "portfolios" (as it was too expensive "bundle" and insure them to sell separately, with very few wanting the higher risk assets). Said provisions provides for transparency, uniformity, and predictability.

While the primary intent of this dissertation was not to identify issues already unfortunately known and experienced by many (loss revenue, loss of residences, legal costs and damages), but to propose a comprehensive workable "solution," one that does not require political, legislative, or regulatory action to be used immediately by both public and private institutions, it is not meant to be an arbitrary "manifesto" but a working "guide book" to assist in ending the "mortgage crisis." While the primary focuses have been on

residential lending, the land trust lending model also will work with commercial properties as well.

While we all may not have created the "mess" we are in, even though we may be participants and potential "victims" of it (or "beneficiaries", like many "vulture investors" have been (although they even unpredictably became "victims" as well, ending up in positions that they didn't desire, as "landlords" and "bankers" (with their liquidity impugned in their having to rent properties or provide financing to buyers)), we owe it to present and future generations to fix it and not end up in a "lost" decade (or two), where the hope and benefit of home ownership is denied to many, or that even the dreams and aspirations of home ownership doesn't even formulate in peoples minds and thus they don't even try. As an additional side note, the collapse and re-structuring of two major industries in the United States, the construction industry (directly related to the "mortgage crisis" itself) and the automobile industry (as a precursor to the further implementation of automation, and other "efficiencies" and cost savings in pursuit of increased profits as well as survivability), has contributed significantly to both unemployment and under employment (statistically contributing to an estimated 20-25% of males between the ages of 25 and 40 (at their prime) falling into said categories). "Re-tooling" said workers is costly and difficult, supporting them socially and economically is extremely expensive (especially considering the loss of tax revenue generated by them when they are productive and at the same time trying to provide them healthcare).

Whether the "mortgage crisis" was caused by "loose credit" (whether politically motivated or due to greed (on the lenders and borrowers part) or poor underwriting, or more likely than not a combination of all the above) or other economic forces, the consequences have revealed the inherent "flaws" in our lending and legal models. Many say the definition of "insanity" is doing the same thing over and over again and expecting different results. Let's fix the major "broken", contributing factor, that caused the decline in construction---a lack of "predictable" and available financing, that people can qualify for and that the government doesn't have to directly and indirectly subsidize. The demand and need for housing hasn't decreased. If we can re-stimulate the construction industry by "fixing" financing, some additional people may get back to work, buy more houses (assisting with housing price recovery and decreasing the number of parties "under water" on their mortgages), and maybe even buy more cars.