

From: Kup [doshf@cox.net]
Sent: Friday, February 18, 2011 12:12 PM
To: !FHFA REG-COMMENTS
Subject: (RIN) 2590-AA41

Ban ALL private transfer fees retroactively.

This proposed rule places taxpayer monies at risk in situations where an HOA or other excepted organization forecloses on a house for non compliance with rules established by private contract - not for defaulting on the mortgage. The proposed rule does not mandate that the HOA or other excepted organization, undertaking a foreclosure action, become obligated to pay the full loan amount - to reduce risk to public funds. No discussion of the legal risks and financial ramifications to public funds in such cases is included in the discussions of previous proposed rules.

The FHFA, as a government agency, is obligated to accurately assess risks to public funds by this proposed rule. The FHFA needs to investigate, quantify, and publically report the potential and actual risk the proposed rule would generate. Disputes on matters of HOA rules are common. The FHFA needs to answer:

How many disputes are filed each year?

What is the basis of each dispute i.e. public law or private rule?

What was the process to resolve the dispute i.e. private board review or public legal authority and quantification of the risks associated?

How many are settled in favor of homeowners verses the HOA or excepted organization?

How many result in foreclosure?

Is the dollar value of the dispute in proportion to the value of the remedy imposed i.e. taking possession of a \$250,000 house for \$800.00 debt and what is the potential and actual risk to public funds from such dispute settlements?

Are HOAs and other excepted organizations leveraging on FHFA authority to collect private contractual debt beyond normal contractually provided for means i.e. foreclosure versus small claims court?

Is it legal for private organizations to leverage public agency authority to collect debt arising from private contracts and does this increase the risk to either the public agency or public funds and how would proposed rule limit that risk?

No uniform HOA dispute resolution process is in place. In each case of dispute, the chance exists that taxpayer monies could be at risk of subordination to private interests. The FHFA must investigate, quantify, and publically report on the questions:

Are public funds placed at risk by arbitrary or capricious dispute resolution processes?

Did the dispute process utilize the authority of a governmental, legal, or other disinterested third party?

Did the dispute resolution follow principles of U.S. or local law?

Was outcome based solely on provisions of private contract and how would rule limit risks to public finds?

If the same dispute arose with a public entity i.e. city or county would the process have yielded the same outcome?

Do not place public funds (taxpayer monies) at risk to private contract disputes between homeowners and HOAs or other excepted organizations without thoroughly investigating, quantifying, and publically reporting the potential and actual risks.

Ban ALL private transfer fees retroactively.

Florence Dosh

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