Connecticut Fair Housing Center

Testimony in Support of House Bill 5352
An Act Concerning Mortgage Servicers

Thank you for the opportunity to address the Committee. My name is Jeff Gentes. I manage the Connecticut Fair Housing Center's fair lending and foreclosure work. On behalf of the Center, I am writing to support House Bill No. 5352, an Act Concerning Mortgage Servicers.

Many of the thousands of homeowners facing foreclosure that we speak to each year[1] have had difficulty working with their mortgage servicers. In the past two years, large banks, especially Bank of America, have sold many of their servicing rights for troubled loans to nonbank servicers. The result has left nonbank servicers handling a much larger portion of outstanding mortgages, especially loans undergoing loss mitigation. And as detailed in the attached New York Times article from February 19, nonbank servicers are now overwhelmed.

We see it every day when we talk to Connecticut homeowners who are paying the price for their servicers' problems. Nearly half of our active cases concern misdeeds by nonbank servicers, and we believe this will continue to increase throughout 2014 and the years ahead.

House Bill 5352 would enable state regulators to protect homeowners dealing with these increasingly important companies. It would help prevent more preventable foreclosures and help bring delinquent loans current more quickly. Because of its potential benefits for consumers, the housing market, and Connecticut, we support House Bill 5352.

Please do not hesitate to contact me with any questions you may have.

[1] The Connecticut Fair Housing Center is the only statewide nonprofit providing representation and advocacy for homeowners facing foreclosure. We have reached homeowners in at least 164 towns since 2010. In 2013, we provided individual advice, representation, and/or in-person education to about 2000 homeowners.

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http://dealbook.nytimes.com/2014/02/18/loan-complaints-by-homeowners-rise-once-more/

Loan Complaints by Homeowners Rise Once More

By JESSICA SILVER-GREENBERG and MICHAEL CORKERY

Wanda Darden, at home in Riverdale, Md. Her mortgage has bounced among three loan servicers, leading to increasing mix-ups. “I either get conflicting answers or no answer at all,” she said.

A growing number of homeowners trying to avert foreclosure are confronting problems on a new front as the mortgage industry undergoes a seismic shift.

Shoddy paperwork, erroneous fees and wrongful evictions — the same abuses that dogged the nation’s largest banks and led to a $26 billion settlement with federal authorities in 2012 — are now cropping up among the specialty firms that collect mortgage payments, according to dozens of foreclosure lawsuits and interviews with borrowers, federal and state regulators and housing lawyers.

These companies are known as servicers, but they do far more than transfer payments from borrowers to lenders. They have great power in deciding whether homeowners can win a mortgage modification or must hand over their home in a foreclosure.

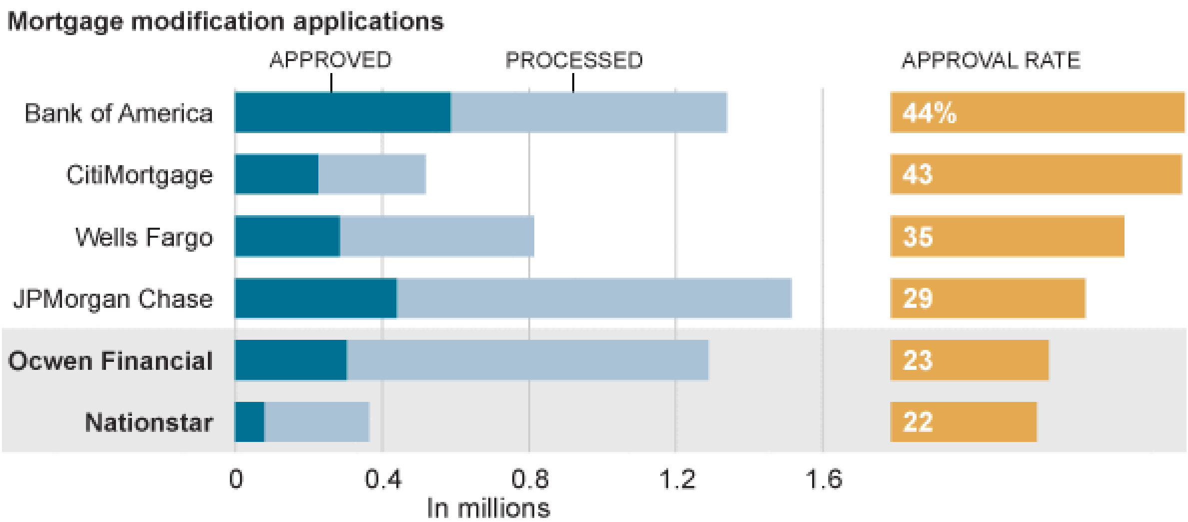
And they have been buying up servicing rights at a voracious rate. As a result, some homeowners are mired in delays and confronting the same heartaches, like the peculiar frustration of being asked for the same documents over and over again as the rights to their mortgage changes hands.

Wanda Darden of Riverdale, Md., has been bounced among three separate servicers since January 2012. Each time, the mix-ups multiply. “I either get conflicting answers or no answer at all,” said Ms. Darden, who is 62.

Servicing companies like Nationstar and Ocwen Financial now have 17 percent of the mortgage servicing market, up from 3 percent in 2010, according to Inside Mortgage Finance, an industry publication.

Relief for Fewer Homeowners

Two of the nation’s largest loan servicers, Ocwen Financial and Nationstar, have approved fewer loan modifications than the biggest banks have since a government program began in 2009 to help homeowners with troubled mortgages keep their homes.



Notes: Figures are for the Home Affordable Modification Program through Dec. 31, 2013.
Sources: Departments of the Treasury and Housing and Urban Development

At first, some federal housing regulators quietly cheered the shift to the specialized companies, thinking that they could more nimbly help troubled homeowners without the same missteps. But as the buying bonanza steps up, some federal and state regulators are worried that the rapid growth could create new setbacks like stalled modifications for millions of Americans just as many were getting back on track from the housing crisis.

This month, New York State’s top banking regulator, Benjamin M. Lawsky, indefinitely halted the transfer of about $39 billion in servicing rights from Wells Fargo to Ocwen.

Katherine Porter, who was appointed by the California attorney general to oversee the national mortgage settlement, says complaints about mortgage transfers have surged, adding that the servicing companies have “overpromised and underdelivered.” Her office alone has received more than 300 complaints about servicing companies in the last year.

Top officials with the federal Consumer Financial Protection Bureau, which oversees the specialty servicers, are scrutinizing the sales to ensure that homeowners don’t get lost in the shuffle.

“The process should be seamless for consumers,” said Steve Antonakes, a deputy director at the agency.

The servicing companies defend their track records, saying they have had success in keeping borrowers in their homes. Ocwen pointed to its investment in customer service, while Nationstar emphasized that it assisted 108,000 homeowners with some form of modification or other repayment plan in 2013.

Several factors have been benefiting the servicing companies. For one, the banks are eager to hand off some of their more challenging loans, and the regulatory headaches that come with them.

What is more, regulations passed after the financial crisis, including requirements that banks hold more of a cash cushion against the servicing rights, hamper profits, further diminishing the banks’ appetite for the business.

Unfettered by those requirements, the servicing companies have experienced breakneck growth. Since 2010, they have increased the number of mortgages they service by as much as six times, yielding strong returns for the companies’ investors, like the Fortress Investment Group, a private equity firm and the largest shareholder in Nationstar. It has seen its stock price double since going public in March 2012.

Despite the boom, some regulators and housing advocates say that the servicing companies are not doing enough to help homeowners keep their homes.

A Montana couple, Guy and Michelle Herman, thought they had finally won an agreement with their lender to reduce their mortgage bill and save their home after more than three years of fighting foreclosure.

A few months later, however, their mortgage modification appeared to have vanished. Their lender, Bank of America, had sold the right to collect their monthly mortgage payments to Nationstar in July.

“I feel like we got so close to the dream of keeping our house and suddenly it’s gone,” Ms. Herman said.

Some of the problems, analysts and regulators say, come down to the speed. The specialty servicers have not upgraded their technology or infrastructure to accommodate the glut of new mortgages.

Even more troubling, some regulators say, the servicers benefit when they work through the troubled loans as quickly as possible. That has raised questions about whether the companies are pushing homeowners into foreclosure or offering mortgage modifications that will keep homeowners treading water, but ultimately cause them to fall even further behind.

The servicing companies say they have bolstered customer service, including employing more Spanish-speaking representatives and offering flexible call hours.

"If these companies can do a better job rehabilitating the borrower, that is a good development," said Wilbur Ross Jr., a board member of Ocwen, which says it offers more subprime mortgage modifications than many peers.

But some borrowers say that dealing with the specialty servicers is even more vexing than working with the banks, especially when long-promised loan modifications don't materialize.

The Hermans of Columbia Falls, Mont., said that despite almost daily calls to Nationstar, they still could not get an explanation of how their permanent loan modification from Bank of America, which reduced the balance on their mortgage by nearly $80,000, could disappear.

"I don't even know how to get a human on the line," Mr. Herman said.

Nationstar said that the couple never had a permanent loan modification and added that it had since offered the Hermans a new modification.

But behind Mr. Herman's exasperation is what separates the specialty servicers from the largest banks, according to regulators. The specialty servicers, the regulators say, do not offer the same attention to customer service that banks did.

Flaws in computer systems can further compound delays. At Ocwen, there is a dizzying number of computer codes, approximately 8,400 different varieties, to categorize issues within borrowers' files like a job loss, according to a person briefed on the matter. Many of these codes, the person said, are duplicates.

Mr. Lawsky's office, which installed an independent monitor at the company, is examining whether computer issues are wrongfully pushing homeowners into foreclosure. Ocwen says that they are not aware of any improper foreclosures.

The servicers also have relationships with companies that can benefit from foreclosures.

William Erbey, Ocwen's chairman is also the chairman of Altisource Residential, which buys up delinquent mortgages and owns foreclosed homes turned into rentals. Altisource's loans are serviced by Ocwen. According to securities filings, Mr. Erbey recuses himself from issues that relate to both companies and Ocwen adds it has a "strictly arms-length business relationship" with Altisource.

Specialty services may also be profiting at the expense of the investors who own the mortgages. Typically servicers get a fixed fee from investors for handling the mortgage payments, no matter if the borrower is up to date or has fallen behind.

But the dynamic of that business has changed, in part, because the specialty servicers are buying the rights to collect payments at discounts, along with the loan advances — the money that the servicers pay to investors to cover any delinquent payment. The sooner the servicer can make the loan current again, the sooner investors pay back the servicers' advance in full. That kind of arbitrage could incentivize servicers to offer modifications that cause borrowers to default again, investors say.

Borrowers like Ms. Darden of Maryland, meanwhile, must contend with the changes in the market. "I just don't know how much more of this I can take," she said.

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