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Mitigating Foreclosure-Driven Blight

Although the housing market has improved significantly in most of Tennessee since the peak of the foreclosure crisis in 2008, many properties have been foreclosed on or are still in the foreclosure process, and many are vacant. Foreclosure often leads to blight because most foreclosed homes are vacant for at least a brief period, some for years. A vacant home is less likely to be maintained regardless of ownership, whether the owner or investor intends to sell when the market recovers or whether the property is truly abandoned. Besides being neglected, some vacant homes are further damaged by vandalism, theft of metal wiring and copper pipes, and arson. Even diligent owners may not be immediately aware of maintenance issues or vandalism if they are not living on the property. Many foreclosed homes are owned by banks and investors in other states.

Holding owners responsible for maintaining vacant, foreclosed properties can be difficult and time consuming. As noted in the Commission's 2012 report on remedying blight, a study of blight in Washington, DC, found that vacant, blighted properties often lower neighborhood property values, are tax delinquent, and result in loss of tax revenue.¹ A 2010 study commissioned by Philadelphia had similar findings. That study found that "vacant property reduces market values by 6.5% citywide and by as much as 20% in neighborhoods with the most empty lots and structures."² In discussing its 2012 report, the Commission, at the request of commission member Senator Jim Kyle, directed staff to study how the protracted foreclosure process is affecting local governments' ability to remedy blight and to identify strategies that might assist in the redevelopment of areas experiencing blight related to foreclosure.

Foreclosure-related blight is a more serious problem in some Tennessee communities than in others. Memphis and Shelby County are the most severely affected. Conditions have worsened in some neighborhoods that were already suffering from vacancy and blight before the crisis, and problems have developed in others because of newly vacant foreclosed homes. As housing markets recover across the state, more and more foreclosed homes are purchased and occupied. However, the housing market in the Memphis Metropolitan Statistical Area (MSA) has yet to fully recover, and many foreclosed homes are still vacant in some areas. The Memphis MSA ranks 9th in the country for the percentage of houses with negative equity; 27% of homes are "underwater" (more is owed than the home is worth), and the average home price is 10% below the peak of the housing market. Among cities nationally, Memphis ranks 36th by this measure, with 33% of homes underwater and the average price of homes 25% below the peak of the market. Clarksville, the only other Tennessee city in the top 100 cities

¹ National Vacant Properties Campaign 2005.

² Frasier 2012.

for negative equity, ranks 85th with 25% of homes underwater and the average home price 3% below the peak.³

Tennessee and its local governments have already taken a number of steps to prevent and address the blight problems associated with the high number of foreclosures, including

- providing monetary assistance to homeowners facing foreclosure so they can keep their homes,
- counseling homeowners on how to keep their homes,
- rehabilitating and reselling vacant foreclosed properties, and
- requiring owners to maintain vacant foreclosed properties.

These strategies are generally effective at remedying blight in foreclosure situations. Since 2011, the Keep My Tennessee Home program has helped more than 7,000 homeowners facing foreclosure keep their homes by paying overdue and current mortgage payments. Since 2007, counseling has educated more than 27,000 homeowners on their options for keeping their homes when at risk of or experiencing foreclosure. Local governments are using housing authorities and the Neighborhood Stabilization Program (NSP) to acquire and redevelop foreclosed properties that might otherwise become abandoned and blighted. They are also using a number of Tennessee laws that enable local governments to combat blight by requiring owners to maintain vacant properties.

Memphis is also trying an approach new to Tennessee. In 2013, the city established a registry for property that is vacant, abandoned, and tax delinquent. The registry is too new to evaluate its effectiveness, but is similar to registries implemented by cities in other states. Other cities require registration of all abandoned properties, not just those that are tax delinquent. Officials in some cities report success using information from the registries to contact and require responsible parties to maintain their property but registration compliance is a challenge with these broader registries. Also, the Mortgage Electronic Registration Systems (MERS) database, which includes information on vacant properties, is accessible to local government officials at no charge,⁴ and may be a more cost-effective option than establishing a local registry. But not every property is available in MERS and some local officials have reported difficulties in obtaining access to and using the system.

Additional strategies implemented in other states include mediation programs to reduce the number of foreclosures, condemning mortgages through eminent domain, lowering the time required for foreclosures, and bond requirements to ensure that loan servicers maintain properties in foreclosure. The disadvantages of bond requirements, including the difficulties of getting authority to impose them as well as the administrative burden of implementing them,

³ Dreir, Bhatti, Call, Schwartz, and Squires 2014.

⁴ Mortgage Bankers Association 2014.

may outweigh the advantages now that the peak of the foreclosure crisis has passed. Now that the number of foreclosures in Tennessee is lower than in 2005, two years before the Great Recession began, bond requirements do not seem warranted.

Mediation programs designed to prevent foreclosures by helping the parties agree on loan modifications or other remedies are effective, but this strategy can be expensive, and in most cases not necessary because federal requirements and legal settlements already require servicers to provide loan modifications to eligible homeowners. Also, although keeping homeowners in their homes can help prevent blight, mediation lengthens the foreclosure process, even for those who cannot realistically afford to keep their home.

Condemning mortgages through eminent domain is a controversial strategy that a few communities in other states are pursuing. This approach is not a viable option because it would be overwhelmingly opposed by real estate, mortgage, and banking interests. Even if adopted, the change could harm a community by drying up the lending market because the federal government has indicated it will not purchase mortgages in communities that choose to condemn mortgages.

Lowering Tennessee's time to foreclose would not be helpful because the foreclosure period is already one of the lowest in the country, and such an effort would be at cross-purposes with federal efforts focused on keeping people in their homes and legal settlement requirements placed on banks.

Prevalence of Foreclosure-Driven Blight and Strategies to Prevent It

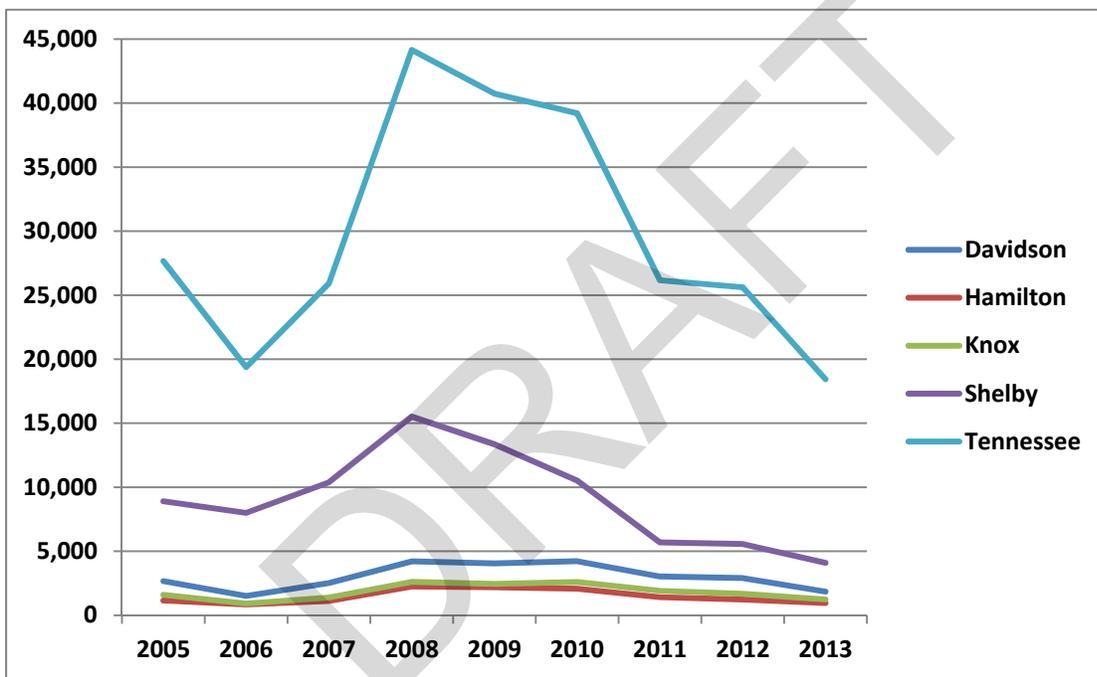
In 2008, at the peak of the foreclosure crisis caused by relaxed lending and investment practices, Tennessee had 44,153 foreclosure filings. The problem was especially bad in Shelby County, where there were 15,516. Although the number of homes entering foreclosures in 2013, 18,430, is much lower than at the peak of the crisis in 2008, there are still a large number of vacant, foreclosed homes in some Tennessee communities. For example, Shelby County had 4,095 in 2013. Since vacant homes, whether foreclosed or not, are often neglected or vandalized, they contribute to blight. Tennessee and its local governments have already taken a number of steps to prevent and address blight problems associated with the high number of foreclosures, including providing monetary assistance to homeowners facing foreclosure, counseling homeowners on how to keep their homes, rehabilitating and reselling vacant foreclosed properties, requiring owners to maintain vacant foreclosed properties, and implementing a registry in Memphis of properties that are vacant, abandoned, and tax delinquent.

Foreclosures Peaked in 2008 but Remain a Problem in Certain Areas of the State

Foreclosure filings in Tennessee and its four largest counties decreased from 2005 until 2006, but increased in 2007 and peaked in 2008 (see figure 1). Foreclosure filings as a percentage of

properties almost tripled in Davidson, Hamilton, and Knox counties from 2006 to 2008. The percentage almost doubled over the same period in Shelby County, which nevertheless had the largest number of foreclosures in the state. See figure 2 and appendix A. The number of foreclosure filings and filings as a percentage of properties for Tennessee and Shelby County began to decline in 2009. They began to decline in the other three counties in 2009 as well, but stalled briefly in 2010 before continuing to decline until the present. Foreclosure filings declined in 90 counties from 2012 to 2013, but increased in only four counties (Loudon, Meigs, Montgomery, and Stewart), and remained the same in one (Humphreys). The largest decline in numbers occurred in Williamson County, where filings fell from 446 in 2012 to 230 in 2013, a 48% drop. The largest increase in filings occurred in Montgomery County, where they rose 16% from 576 in 2012 to 670 in 2013; filings increased 33% from 2011 to 2013.⁵

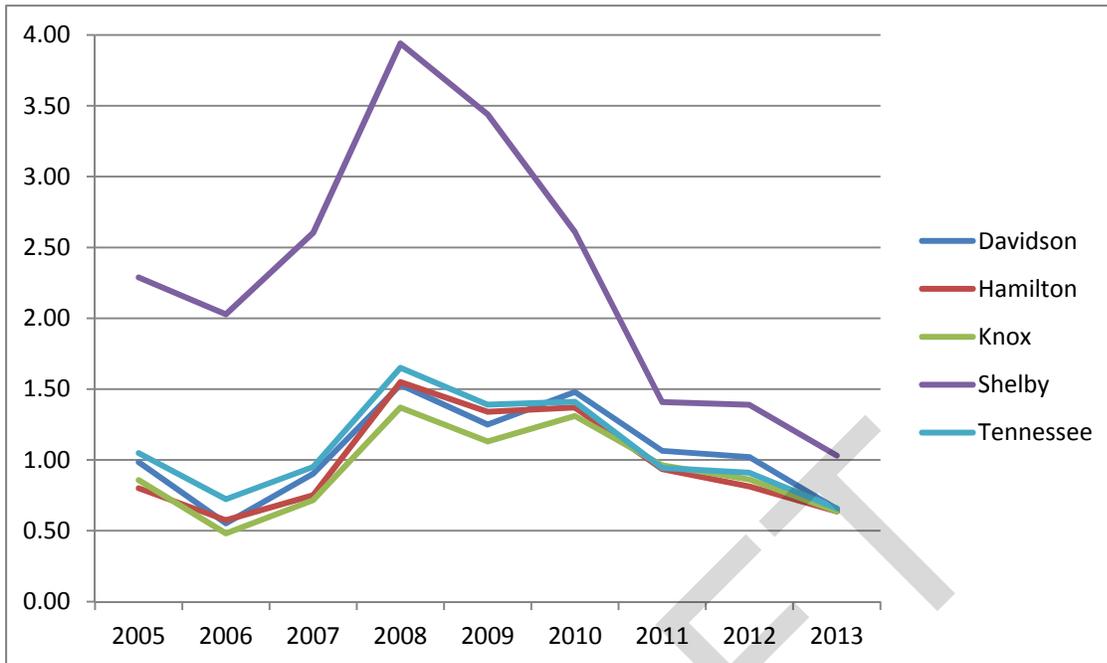
Figure 1. Number of Foreclosure Filings 2005-2013



Source: Tennessee Housing Development Agency Foreclosure Trends Reports

⁵ Tennessee Housing Development Agency 2014.

Figure 2. Foreclosures as a Percentage of Properties 2005-2013



Source: Tennessee Housing Development Agency Foreclosure Trends Reports

The percentage of properties with foreclosure filings in 2008 is presented by county in Map 1 and the percentage of properties with foreclosure filings in 2013 is presented by county in Map 2. Shelby was the county with the highest percentage in 2008 (3.9%), but in 2013 Loudon County had the highest percentage (1.1% versus 1.4% in 2005) with Shelby second (1.0%).

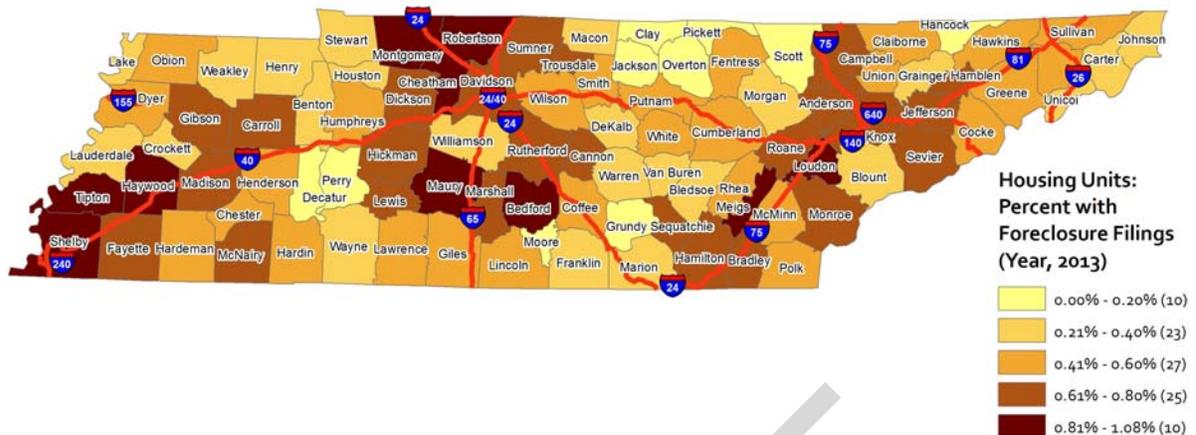
Map 1. Percentage of properties with foreclosure filings by county 2008.⁶



Source: Tennessee Housing Development Agency 2008 Foreclosure Trends Report

⁶ Tennessee Housing Development Agency 2009.

Map 2. Percentage of properties with foreclosure filings by county 2013.⁷



Source: Tennessee Housing Development Agency 2013 Foreclosure Trends Report

Lending and Investment Practices That Led to the Foreclosure Crisis

As a result of the collapse of housing prices and housing construction that began as early as 2005 and spread across the country by 2007, the country entered a recession that started in December 2007. The additional effect of a slowly materializing collapse in housing-related financial instruments (mortgages and mortgage-related securities) and the financial institutions that dealt in such instruments eventually threatened the whole US financial system. This additional burden on our already-weakened economy ultimately transformed what could have been a typical recession into the worst recession since 1929 and eventually caused a 50% drop in the stock market,⁸ and ultimately the loss of 8.8 million jobs.⁹

Between 2000 and the peak in early 2007, housing prices in the United States rose by 65%.¹⁰ In Arizona, Florida, Nevada, and California, housing prices more than doubled.¹¹ This bubble in prices was fueled by a combination of relatively low interest rates, a lack of regulation and oversight of a fast growing sector of the finance industry that aggressively marketed

⁷ Tennessee Housing Development Agency 2014.

⁸ Based on the DJIA and S&P 500 stock indexes between their peak in October 2007 to their trough in March 2009. Source: Federal Reserve Bank of Atlanta.

⁹ Goodman and Mance 2011.

¹⁰ Federal Housing Finance Agency quarterly house price data available at website <http://research.stlouisfed.org/fred2/>, series USSTHPI (accessed April 12, 2013).

¹¹ Haughwout, Lee, Tracy, and Klaauw 2011.

“subprime” or high-risk mortgages,¹² and reckless speculation. The rise in housing values could not be sustained, and the inevitable bust began.

If the housing sector had been the only out-of-control segment of the economy to burst, the recent recession would have been less severe. Housing construction would have declined, along with employment in that industry and others, but eventually would have recovered. Household wealth would still have been negatively affected by the decline in home prices, and therefore homeowner equity, but not as damaged as it ultimately was.

Unfortunately, the housing bubble and its collapse were soon eclipsed by the collapse of the financial market that had financed much of the housing bubble. A growing volume of mortgage-backed securities (MBSs) financed the rapid growth in mortgage borrowing during the bubble. As the frenzy for real estate continued, the pool of low-risk (prime loans) borrowers dwindled, and more higher-risk borrowers (subprime) entered the game. At the height of the frenzy, from 2004-2006, the growing number of high-risk borrowers ultimately led to a growing number of high-risk MBSs issued primarily by private label securitizers.¹³

Government Sponsored Enterprise (GSE)-issued MBSs that had represented the bulk of new annual MBS issues declined as a share of total new issues beginning in 2004. Originations of nonprime high-risk mortgages, both subprime and Alt-A (considered riskier than prime but less risky than subprime), rapidly grew during the three years before the market finally imploded.¹⁴

A proper evaluation of the risks could have better controlled and restrained the rapidly growing market in these securities. Unfortunately, the ratings industry responsible for analyzing the risk of such securities miserably failed in this responsibility. Despite the inclusion of large numbers of risky mortgages in many MBS issues in 2003 and later, the major credit reporting agencies did not flag the majority of such securities as risky until it was too late.¹⁵ Most of these risky securities were rated AAA and sold to unsuspecting investors.

A significant increase in credit default swaps (CDSs) further worsened financial stability. CDSs represent a financial arrangement similar to insurance that protects a buyer against debt defaults or declines in value of a financial asset. Many private financial institutions offered CDSs for a fee or premium to protect MBS holders and others against declines in value. This was a lucrative source of income to some large financial firms, until housing prices collapsed,

¹² An inexact term that usually refers to mortgages such as: adjustable rate (ARMs), 2/28 adjustable, balloon payment loans, loans with sudden reset provisions, and interest only loan loans.

¹³ Securitizers include government-sponsored enterprises (GSEs) such as Freddie Mac and Fannie Mae, Ginnie Mae (a wholly-owned government corporation in HUD), and private issuers (known as private-label securitizers).

¹⁴ Belsky and Richardson 2010.

¹⁵ Moody's, Standard and Poor's, and Fitch often gave AAA ratings to MBSs that included a large proportion of high-risk mortgages. For a full report of the many failures of regulation and oversight, see the report *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse* by the United States Senate Permanent Subcommittee on Investigations at website <http://www.hsgac.senate.gov/subcommittees/investigations/reports>.

homeowners stopped mortgage payments (defaulting), foreclosures increased, MBS prices collapsed, and CDS sellers were faced with liabilities they could not pay.¹⁶

The housing market crash caused a household wealth loss of \$6 trillion in the U.S., similar to the \$6.2 trillion loss from the 2000-2002 dot-com crash. Researchers compared the two crashes and found that “the housing crash killed retail spending, which collapsed eight percent from 2007 to 2009, one of the largest two-year drops in recorded American history. The bursting of the tech bubble, on the other hand, had almost no effect at all; retail spending from 2000 to 2002 actually increased by five percent.” They argue that the decline in home prices starting in 2007 concentrated losses on people with large debt but the tech crash concentrated investment losses on the rich who had almost no debt. Those most affected by the housing crash had to cut back on spending, but those most affected by the dot-com crash did not.¹⁷

The housing sector was hardest hit by the recession and its lingering effects. While declining home values had a negative effect on all homeowners, the most seriously affected were those whose home values declined to less than the outstanding mortgage balance (underwater mortgages). Other seriously affected homeowners included those who had borrowed heavily or unwisely in the years leading up to the housing bust, thinking that the rapidly-rising home value would offset any resets or other increases in their initial low interest rates, plus high risk borrowers who simply should never have been allowed to borrow at all. Many of these borrowers went into default on their loans and eventually received foreclosure notices.

The appendix includes information explaining how the various participants and institutions fared in both the lead-up to the crash and the aftermath, particularly the slow resolution of mortgage defaults and the foreclosure process. The appendix also describes the long-term programs and policies put in place by the federal government with the intent to prevent another housing crisis.

Existing and Effective Strategies to Keep Homes Occupied and Maintained

Tennessee and its local governments have already taken a number of steps to address the blight problem associated with the high number of foreclosures.

Monetary assistance to help borrowers pay mortgages

One strategy that is working in Tennessee is helping homeowners with the greatest needs with mortgage payments. The Tennessee Housing Development Agency (THDA) administers the Keep My Tennessee Home program, which pays overdue or current mortgage payments. THDA pays these funds directly to the loan servicer or lender. To meet the basic eligibility requirements of this program, a homeowner must:

¹⁶ American International Group (AIG), the best-known player in the CDS fiasco, had issued so many CDSs, that it ultimately had to be bailed out by the federal government when the MBS market collapsed.

¹⁷ Sufe and Mian 2014.

- Own and occupy their primary residence in Tennessee.
- Since Jan. 1, 2008, have experienced a job loss and/or a 30% reduction in household income through no fault of their own, have had a medical hardship, suffered the death of a spouse or a recent divorce. In 2014, eligibility was expanded to include veterans who have been on active duty at any time after January 1, 2001.
- Have mortgage loan balance on residence less than or equal to \$275,000.
- Have current gross household income less than or equal to \$92,680.
- Have liquid assets no more than six months of mortgage principle, interest, taxes and insurance.

Homeowners in all 95 counties who qualify for the program can receive up to \$40,000 to help pay their mortgages for up to 36 months. These are 0% interest loans with a forgiveness clause that reduces the loan amount by 20% a year for every year the borrower stays in the home, up to five years. At the end of five years the note is satisfied and THDA will release the lien securing the note. Loan funds are due and payable if the property is sold, refinanced, or no longer owner occupied, and there are sufficient equity proceeds available. As of March 13, 2014, THDA has made 6,139 loans and has committed to make loans to an additional 404 homeowners, totaling \$150,463,065. As of June 30, 2013, 95% of homeowners who used this program were able to retain their homes. Another provision of the Keep My Tennessee Home program helps applicants who started with the program when its maximum benefit amount was less than \$40,000. Through this provision, as of March 13, 2014, THDA has provided additional funds to 875 borrowers already in the program¹⁸ and has committed to make 363 more loans. The total amount allocated and committed is \$17,776,974.

Through the Long Term Medical Disability program, THDA also assists homeowners who are struggling to make mortgage payments because of long-term medical problems. THDA has already loaned money to 535 homeowners and has committed to provide loans to an additional 63 homeowners through this program, totaling \$15,749,411¹⁹.

Counseling on options to prevent foreclosure

Counseling offers information and referrals to homeowners facing foreclosure to ensure that they are aware of all their options. THDA administers the National Foreclosure Mitigation Counseling (NFMC) program at the state level. In 2007, the federal government created the NFMC to increase the availability of foreclosure counseling services. THDA uses funds from the NFMC to maintain an extensive network of 15 foreclosure prevention-counseling agencies, with over 44 counselors that serve homeowners in all 95 counties. The program provides these

¹⁸ Tennessee Housing Development Agency 2013.

¹⁹ Tennessee Housing Development Agency 2014.

services at no cost regardless of homeowner income. Through the first quarter of 2014, THDA has provided counseling to 14,482 Tennessee households facing foreclosure.²⁰

In 2012, THDA, in partnership with the Tennessee Office of the Attorney General and Reporter, created a toll-free hotline for citizens experiencing difficulties with their mortgage payments or problems with servicers.²¹ The hotline is funded with Tennessee's share of the "national mortgage settlement," an agreement 49 states and the federal government reached with the country's five largest mortgage servicers, who routinely signed foreclosure-related documents outside the presence of a notary public and without knowing whether the facts they contained were correct. The state's website and outreach materials prominently feature information about the hotline. If hotline staff cannot help the caller immediately, they provide contact information for certified mortgage counseling or for other needed assistance.

In addition to THDA's programs, another resource for Tennessee homeowners is the HOPE NOW Alliance, formed by industry leaders in mortgage lending, investment, and servicing. HOPE NOW manages a multi-state tour of workshops where homeowners can talk to their lender or a housing counselor about their mortgage. The program conducted one such workshop in Memphis in 2008, one in Nashville in 2012, and another in Memphis in 2014.²² The alliance also has a nationwide toll-free HOPE Hotline that provides counseling to homeowners. Since 2008, hotline counselors have completed 13,044 counseling sessions with Tennessee homeowners.²³

Requiring owners to maintain vacant properties or government maintaining the properties

A number of Tennessee laws enable local governments to combat blight by requiring owners to maintain vacant properties. State laws enable local governments to require owners to remove trash or overgrown vegetation upon notice,²⁴ and local governments can correct the problems if the owners don't.²⁵ Local governments can also order the removal or remedy of dangerous or defective building conditions.²⁶ Code enforcement programs enable local governments to identify blighted vacant properties and take steps to rehabilitate or demolish them.²⁷

²⁰ Tennessee Housing Development Agency 2014.

²¹ The hotline number is (855) 876-7283.

²² Hope Now Alliance.

²³ Hope Now Alliance.

²⁴ Tennessee Code Annotated Section 6-54-113.

²⁵ Tennessee Code Annotated Section 5-1-115.

²⁶ Tennessee Code Annotated Title 68, Chapter 102, Part 1.

²⁷ Tennessee Code Annotated Sections 6-54-502 and 5-20-102 and Tennessee Code Annotated Title 13, Chapter 21, Part 1.

Memphis is using these laws to fight blight. Under the “25 Square” initiative, Memphis is cleaning up blight by having crews work in predetermined 25 block zones doing everything from mowing overgrown yards to using eminent domain to condemn properties with dilapidated structures in order to raze the structures.²⁸ After the city's crews finish their cleanup, the city sometimes works with local artists to create art installations to brighten boarded up homes and businesses.²⁹

Rehabilitating and reselling vacant foreclosed properties

The most basic impediment to dealing with blight caused by foreclosures and vacant homes is the ability to quickly resell or rehabilitate low-value properties. Foreclosed middle- to high-value properties usually sell easily at auction, but low-value properties often don't. Local governments can use a variety of tools to get these properties into the hands of interested buyers. Tools include housing authorities and the Neighborhood Stabilization Program (NSP), which provides emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities.

NSP provided three rounds of grants. NSP1 and NSP3 provided grants to all states and select local governments on a formula basis.³⁰ NSP2 provided grants to states, local governments, and nonprofit organizations on a competitive basis. The total amount received by Tennessee and its cities was \$113.2 million. THDA received allocations of NSP1 and NSP3 funds and awarded pass-through funds to local governments and nonprofit organizations according to a set of need-based criteria. Chattanooga, Knoxville, and Shelby County directly received NSP1 funds. Nashville directly received NSP1 and NSP2 awards, and Memphis directly received NSP1 and NSP3 funds. Table 1 shows the amounts of the NSP awards.³¹

²⁸ Baker 2012.

²⁹ Phillips 2013.

³⁰ U.S. Department of Housing and Urban Development 2013.

³¹ OneCPD Resource Exchange (CPD stands for “community development programs.”)

Table 1. Distribution of Neighborhood Stabilization Program Funds

	NSP ₁ (formula grant)	NSP ₂ (competitive grant)	NSP ₃ (formula grant)	Total NSP
Chattanooga	\$2,113,727			\$2,113,727
Knoxville	\$2,735,980			\$2,735,980
Memphis	\$11,506,415		\$5,195,848	\$16,702,263
Nashville	\$4,051,398	\$30,470,000		\$34,521,398
Shelby County	\$2,752,708			\$2,752,708
Tennessee (THDA)	\$49,360,421		\$5,000,000	\$54,360,421
Total	\$72,520,649	\$30,470,000	\$10,195,848	\$113,186,497

Source: OneCPD Resource Exchange, U.S. Department of Housing and Urban Development

In addition to the NSP program, housing authorities may acquire and redevelop blighted areas or other real property “for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight.”³² Under the housing authorities law, the authority can completely redevelop properties and whole sections of a community.

Memphis is also trying an approach new to Tennessee. In 2013, the city established a registry for property that is vacant, abandoned, and tax delinquent. The registry is too new to evaluate its effectiveness, but is similar to registries implemented by cities in other states. Those cities have had success using registries to help reduce blight, though they require registration of all abandoned properties, not just those that are tax delinquent.

Strategies Addressing Foreclosure-Driven Blight Used in Other States

This report evaluates several strategies implemented in other states and does not recommend any for adoption in Tennessee:

- require servicers to post bond for each foreclosure
- implement a mediation program
- implement vacant and foreclosed property registries

³² Tennessee Code Annotated Section 13-20-202.

- use eminent domain to seize underwater mortgages
- reduce the time to foreclose on properties

Requirement for servicers to post bond for each foreclosure

Properties often go unmaintained after servicers initiate the foreclosure process.³³ To ensure maintenance of vacant properties, the Massachusetts cities of Lynn, Lawrence, and Springfield, and the Ohio cities of Youngstown and Camden, require servicers to post a \$10,000 cash bond to the city at the start of a foreclosure. If the property deteriorates, the city can use the bond to pay for maintenance and repair. If the property is maintained, the city returns the bond to the servicer at the time the property is sold, minus an administrative fee of several hundred dollars.³⁴

Local officials state that administrative fees are needed to offset the increased costs local governments incur in administering such bond programs. For example, officials have to monitor each new foreclosure, ensure the servicer posts a bond for each property, monitor the level of maintenance of each property, request the servicer provide maintenance when needed, and deal with general and legal correspondence.

Local governments benefit because property values are better maintained and taxpayers don't have to bear most of the cost of maintenance or repair of the property. For specific properties affected, the bond requirement helps current homeowners and future homebuyers since local governments would not place maintenance liens on the property since the bond can be used to pay for addressing blight.

Mediation programs

Mediation programs benefit local communities by preventing some homes from becoming vacant. Mediation offers formal negotiations between homeowners and their servicer focused on finding a mutually beneficial solution so that both the homeowners and the lender end up better off than if foreclosure occurs. The homeowners get to keep their home and the lender doesn't bear the costs associated with foreclosure. However, not all homeowners are able to meet the terms of a modified mortgage and eventually re-default.

Tennessee has not adopted a formal state-level mediation program, but 19 states have.³⁵ Local governments in six states have implemented mediation programs as well.³⁶ In some

³³ A servicer is a business that collects mortgage payments from borrowers and manages the borrower's escrow accounts.

³⁴ Rink 2013.

³⁵ California, Connecticut, Delaware, Hawaii, Indiana, Iowa, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, Vermont, Washington, and Wyoming.

³⁶ Illinois, Kentucky, Massachusetts, New Mexico, Pennsylvania, and Wisconsin.

states, servicers pay the costs of mediation and in others, homeowners and servicers split the cost. Some local governments fully fund mediation programs for their jurisdiction.

The programs appear to be successful. Studies have shown that homeowners who participate in mediation are more likely to negotiate mortgage modifications that allow them to stay in their homes. One study found that 35% of those who participated in mediation were able to reach a settlement to remain in their home. Eighty percent of those were still in their homes two years later.³⁷ Another study found significantly more mortgage modifications in areas with mediation programs than in those without them.³⁸

Mediation prevents some blight since owners are able to stay in their homes and are more likely to remedy existing repair issues as well as to perform routine maintenance. When homeowners know they are losing their home to foreclosure, property upkeep is not their highest priority. However, mediation would not have an effect on existing vacant properties since this program doesn't do anything about already-foreclosed properties.

In 2011, Senate Bill 2030 (Ford) [House Bill 1967 (Turner, J.)] was introduced that would have required the THDA study establishing a foreclosure mediation program for Tennessee. The bill did not pass, but THDA studied the issue anyway and produced a draft report in which it concluded that implementing a formal mediation program would have some value but would come at a significant cost:

. . . if the State of Tennessee were to consider adopting a mandatory mediation program for homeowners facing foreclosure, lawmakers must first identify a funding source and an adequate number of qualified mediators to handle the potential caseload. In states with similar programs, eligible mediators have included attorneys, retired judges, professional mediators, and certified housing counselors.³⁹

Vacant and foreclosed property registries

One of the major challenges confronting city officials is identifying those responsible for maintaining vacant properties. Some local officials argue that the normal property assessment and codes enforcement databases are inadequate for dealing with the sheer number of foreclosures, vacancies, and abandoned properties. Registries attempt to address this problem by requiring owners or servicers to provide the city with specific contact information. There are several varieties of registries varying by the properties required to be registered: all vacant properties, only abandoned vacant properties, only vacant properties that have been foreclosed, only abandoned vacant properties that have been foreclosed, and all foreclosed properties whether vacant or not. Other varieties also exist.

³⁷ Reinvestment Fund of the Philadelphia Residential Mortgage Foreclosure Diversion Program 2011.

³⁸ Collins and Urban 2013.

³⁹ Tennessee Housing Development Agency 2012.

Registries allow city officials to require the party responsible for a neglected home to address any problems. Nationwide, the number of vacant or foreclosed property registries jumped from fewer than 20 in 2000 to more than 550 in 2012.⁴⁰ Officials in some cities report success using information from the registries to contact and require responsible parties to maintain their property. No data was available on whether the improved ability to contact responsible parties has translated into reduced blight. Property owners or servicers are required to register properties after a certain length of vacancy or after the filing of a formal notice of default or intent to foreclose.

Passing an ordinance does not guarantee compliance with registration. Pottstown, Pennsylvania implemented a vacant property registry effective September 1, 2013 but many owners have not complied with the new law.⁴¹ Similarly, in Toledo, Ohio one of the ways the city learns about a vacant house is after it burns down. But cross-referencing the registry with the list of Toledo vacant-house fires shows even more vacant houses not recorded.⁴²

Chicago is one of the cities that has established a registry. The Federal Housing Finance Agency (FHFA) filed a federal lawsuit against Chicago arguing that mortgages backed by Freddie Mac and Fannie Mae are exempt from the registry. The court determined the ordinance was preempted by federal law based on the supremacy clause of the constitution that allows Congress to displace state and local law. The court also ruled that Chicago's registry impermissibly imposed a tax on FHFA in violation of the absolute federal immunity from state taxation.⁴³

In 2014, Chicago and FHFA reached a settlement. Under the terms of the settlement, the city will not require Fannie and Freddie to comply with the city's vacant and abandoned building ordinances and will not fine the FHFA for ordinance violations. Fannie and Freddie will voluntarily register its vacant properties with the city and continue to enforce that their mortgage servicers comply with their guidelines for foreclosed properties. They will not be subject to the \$500 registration fee.⁴⁴

In response to the vacant and foreclosed property registries being implemented nationwide, the private sector has responded with products and services. For example, VacantRegistry.com was created to provide a range of vacant and foreclosed property services including registries for local governments.⁴⁵ The Mortgage Bankers Association worked with

⁴⁰ Lee, Yun Sang; Terranova; and Immergluck 2013.

⁴¹ Brandt 2013.

⁴² Messina 2012.

⁴³ Podmolik 2013.

⁴⁴ Podmolik 2014.

⁴⁵ See <http://vacantregistry.com/>.

the Mortgage Electronic Registration Systems (MERS) to make the MERS database accessible to local government officials at no charge.⁴⁶ MERS is an electronic registry designed to track servicing rights and ownership of mortgage loans in the United States. However, MERS does not include all mortgages, and sometimes the information for a property is not available.⁴⁷ Although MERS is free, some local officials have reported difficulties in obtaining access to and using MERS.

Use eminent domain to seize underwater mortgages

Several cities are considering using eminent domain to seize underwater home mortgages. Cities would not be taking possession of the property, only the mortgage. The idea is to provide homeowners a new mortgage that reflects the lower value of the property and allow them to stay in their homes. This approach is highly controversial and has been met with great opposition by real estate, mortgage, and banking interests.

The cities propose seizing underwater mortgages and paying the banks fair market value for the property using money from investors who become the mortgagee on a new loan to the homeowner. The owners would no longer owe more on their houses than they are worth.⁴⁸ Federal officials have stated that the federal government will not support this eminent domain approach, and will limit or cease purchasing mortgages where these proposals are approved, closing off most mortgage financing in those jurisdictions.⁴⁹

In September 2013, the Richmond, California, city council authorized the use of eminent domain for this purpose. Other cities that have considered this alternative include Chicago, Illinois, Brockton, Massachusetts, and Irvington and Newark, New Jersey.⁵⁰ Similar initiatives in Las Vegas, Nevada, and San Bernardino County, California, have already been defeated because of real estate, mortgage, and banking industry opposition.

⁴⁶ Mortgage Bankers Association 2014.

⁴⁷ MERSCORP Holdings.

⁴⁸ Lemov 2013.

⁴⁹ Reuters 2011.

⁵⁰ Lee, Pamela 2013.

Reduce the time to foreclose on properties

A few states have dealt with the housing crisis by amending their laws to shorten the foreclosure period. Tennessee already has a short foreclosure period when compared with other states. According to RealtyTrac, the average time to foreclose on a property in Tennessee was 209 days in the third quarter of 2013,⁵¹ compared with the national average of 551 days. The average time to foreclose ranged from a high of 1,037 days in New York to a low of 164 days in Texas.⁵²

States fall into two categories based on how home loans are secured, and the length of the average foreclosure period for the two categories differs greatly. In judicial states, loans are secured by mortgages and foreclosing requires court action, which takes longer. In nonjudicial states, like Tennessee, loans are secured by deeds of trust, foreclosing does not require court action, and the foreclosure periods are generally shorter. Judicial states have generally attempted to reduce the foreclosure period and nonjudicial states have attempted to increase it.

In 2014, House Bill 2208 (Wiragu) [Senate Bill 2399 (Green)] as introduced proposed authorizing trustees to rescind a foreclosure sale within five business days after the sale. One section of the bill would have slowed down the foreclosure process in a modest number of cases. Lenders would bear the cost in these cases. The section of the bill was removed by amendment and Public Chapter 912 does not have any impact on time to foreclose.

Illinois, Florida, and New York are three judicial foreclosure states that have recently taken steps to hasten the foreclosure process. Speeding up foreclosures on vacant properties is intended to help the local residential market as lenders focus on marketing homes instead of preparing for and attending court proceedings. Illinois passed a law allowing banks to foreclose on abandoned homes in as little as 90 days.⁵³ Florida's new law demands that banks come to court prepared to prove they own the mortgages and have the right to foreclose on them, which at least initially, reduced the number of foreclosures filed by 70%.⁵⁴ New York's Court of Appeals began working in 2012 to speed up foreclosures by giving judges added control and requiring banks to send representatives to court who have the power to alter loans in order to keep people in their homes.⁵⁵

⁵¹ Tyler White, National Data Solutions Manager, RealtyTrac, phone interview with David Lewis, December 16, 2013.

⁵² RealtyTrac 2013.

⁵³ Maidenberg 2013.

⁵⁴ Harwell 2013.

⁵⁵ Glaberson 2012.

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Lisa Laflin, Neighborhood Liaison, South Center Region, Mayor's Office of Neighborhood Services, City of Indianapolis

Steve Lockwood, Executive Director, Frayser Community Development Corporation, Memphis

Alvin Nance, Executive Director/CEO, Knoxville's Community Development Corporation

Emily Trenholm, Executive Director, Community Development Council of Greater Memphis

Mark Watson, City Manager, City of Oak Ridge

Tyler White, National Data Solutions Manager, RealtyTrac

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Appendix A. Percent of Properties with Foreclosure Filings by County Tennessee, 2005 through 2013

County	2005	2006	2007	2008	2009	2010	2011	2012	2013
Anderson	0.79%	0.42%	0.54%	0.85%	0.70%	0.86%	1.06%	0.83%	0.63%
Bedford	1.60%	0.99%	1.26%	2.17%	1.88%	1.34%	1.09%	1.25%	1.00%
Benton	0.67%	0.56%	0.55%	0.91%	0.78%	0.63%	0.38%	0.34%	0.28%
Bledsoe	0.62%	0.09%	0.20%	0.65%	0.52%	0.48%	0.27%	0.33%	0.26%
Blount	0.38%	0.06%	0.04%	0.48%	0.47%	0.86%	0.68%	0.63%	0.36%
Bradley	0.88%	0.60%	0.81%	1.35%	1.10%	1.26%	0.70%	0.93%	0.67%
Campbell	0.92%	0.67%	0.87%	1.32%	1.09%	0.93%	0.85%	0.87%	0.72%
Cannon	0.76%	0.53%	0.48%	0.90%	0.77%	1.27%	0.68%	0.83%	0.77%
Carroll	0.77%	0.52%	0.78%	1.24%	1.16%	0.99%	0.55%	0.74%	0.67%
Carter	0.36%	0.20%	0.31%	0.44%	0.36%	0.47%	0.31%	0.38%	0.33%
Cheatham	1.75%	0.71%	0.71%	1.45%	1.23%	1.82%	1.30%	1.41%	0.93%
Chester	1.07%	0.52%	0.77%	0.91%	0.74%	0.87%	0.61%	0.79%	0.49%
Claiborne	0.45%	0.42%	0.54%	0.86%	0.69%	0.87%	0.50%	0.54%	0.41%
Clay	0.34%	0.07%	0.17%	0.29%	0.24%	0.19%	0.21%	0.21%	0.07%
Cocke	0.52%	0.48%	0.50%	0.67%	0.59%	0.97%	0.56%	0.59%	0.43%
Coffee	0.73%	0.52%	0.63%	1.12%	0.91%	0.92%	0.58%	0.72%	0.50%
Crockett	0.78%	0.52%	0.61%	1.01%	0.88%	1.14%	0.59%	0.67%	0.34%
Cumberland	0.61%	0.48%	0.35%	0.77%	0.57%	0.63%	0.63%	0.63%	0.52%
Davidson	0.98%	0.55%	0.90%	1.53%	1.25%	1.48%	1.06%	1.02%	0.65%
Decatur	0.31%	0.35%	0.45%	0.49%	0.44%	0.32%	0.40%	0.33%	0.19%
DeKalb	0.77%	0.16%	1.07%	0.63%	0.57%	0.81%	0.68%	0.60%	0.26%
Dickson	1.25%	0.78%	0.69%	1.35%	1.09%	1.49%	1.06%	1.06%	0.63%
Dyer	0.99%	0.76%	0.83%	1.26%	1.10%	1.12%	0.75%	0.79%	0.44%
Fayette	0.83%	0.48%	0.55%	0.94%	0.75%	0.68%	1.02%	0.93%	0.65%

County	2005	2006	2007	2008	2009	2010	2011	2012	2013
Fentress	0.29%	0.24%	0.44%	0.85%	0.70%	0.90%	0.47%	0.68%	0.57%
Franklin	0.49%	0.41%	0.50%	0.87%	0.71%	0.78%	0.53%	0.46%	0.37%
Gibson	1.58%	0.93%	1.02%	1.63%	1.41%	1.23%	0.79%	0.72%	0.61%
Giles	0.80%	0.50%	0.55%	1.10%	0.96%	0.86%	0.83%	0.65%	0.43%
Grainger	0.44%	0.30%	0.51%	0.89%	0.76%	1.03%	0.48%	0.51%	0.31%
Greene	0.72%	0.41%	0.56%	1.00%	0.83%	1.02%	0.66%	0.61%	0.52%
Grundy	0.32%	0.14%	0.21%	0.60%	0.58%	0.77%	0.44%	0.42%	0.19%
Hamblen	0.71%	0.47%	0.67%	1.49%	1.19%	1.52%	0.68%	1.01%	0.76%
Hamilton	0.80%	0.58%	0.75%	1.55%	1.34%	1.37%	0.93%	0.81%	0.64%
Hancock	0.18%	0.09%	0.12%	0.27%	0.12%	0.20%	0.06%	0.06%	0.00%
Hardeman	0.93%	0.92%	1.32%	2.63%	2.36%	1.09%	0.76%	0.66%	0.59%
Hardin	0.88%	0.47%	0.51%	0.77%	0.67%	0.67%	0.38%	0.57%	0.41%
Hawkins	0.63%	0.42%	0.46%	0.86%	0.66%	0.88%	0.48%	0.60%	0.54%
Haywood	0.89%	0.48%	0.55%	1.22%	1.06%	0.76%	0.81%	0.87%	0.82%
Henderson	0.84%	0.50%	0.53%	1.01%	0.79%	0.73%	0.39%	0.63%	0.45%
Henry	0.72%	0.43%	0.45%	0.76%	0.67%	0.58%	0.48%	0.60%	0.39%
Hickman	1.53%	1.17%	0.99%	1.43%	1.16%	1.65%	1.32%	1.06%	0.80%
Houston	0.32%	0.39%	0.29%	0.59%	0.49%	0.56%	0.39%	0.29%	0.24%
Humphreys	0.87%	0.65%	0.57%	0.82%	0.68%	0.81%	0.45%	0.60%	0.60%
Jackson	0.71%	0.32%	0.33%	0.58%	0.46%	0.40%	0.37%	0.17%	0.14%
Jefferson	0.72%	0.53%	0.53%	1.23%	0.96%	1.21%	0.83%	0.93%	0.74%
Johnson	0.41%	0.21%	0.29%	0.44%	0.38%	0.71%	0.31%	0.41%	0.35%
Knox	0.86%	0.48%	0.72%	1.37%	1.13%	1.31%	0.96%	0.86%	0.64%
Lake	0.44%	0.47%	0.36%	0.76%	0.62%	0.43%	0.61%	0.46%	0.34%
Lauderdale	0.87%	0.92%	0.78%	1.52%	1.29%	1.48%	0.56%	0.55%	0.31%
Lawrence	0.82%	0.54%	0.63%	1.15%	0.93%	0.83%	0.65%	0.73%	0.56%
Lewis	1.44%	0.66%	0.94%	1.14%	0.98%	0.93%	0.79%	0.84%	0.61%
Lincoln	0.78%	0.39%	0.42%	0.86%	0.69%	0.81%	0.85%	0.75%	0.57%

County	2005	2006	2007	2008	2009	2010	2011	2012	2013
Loudon	1.08%	0.55%	0.86%	1.75%	1.35%	1.70%	1.43%	0.92%	1.08%
Macon	0.92%	0.35%	0.53%	1.02%	0.85%	0.94%	0.38%	0.64%	0.34%
Madison	1.31%	0.87%	1.12%	1.80%	1.72%	1.32%	0.97%	0.99%	0.75%
Marion	0.77%	0.29%	0.43%	0.67%	0.52%	0.58%	0.37%	0.45%	0.38%
Marshall	0.97%	0.74%	0.94%	1.90%	1.67%	1.89%	1.56%	1.11%	0.68%
Maury	1.13%	0.65%	0.78%	1.68%	1.40%	2.13%	1.37%	1.32%	0.83%
McMinn	1.20%	0.68%	0.83%	1.30%	1.08%	1.21%	0.76%	0.84%	0.56%
McNairy	1.05%	0.81%	0.89%	1.37%	1.13%	1.14%	0.83%	0.88%	0.63%
Meigs	0.80%	0.52%	0.55%	1.21%	1.03%	1.11%	0.72%	0.66%	0.88%
Monroe	0.79%	0.46%	0.62%	1.29%	1.00%	1.33%	0.93%	0.88%	0.63%
Montgomery	1.04%	0.63%	0.70%	1.51%	1.20%	1.07%	0.73%	0.82%	0.97%
Moore	0.40%	0.07%	0.07%	0.21%	0.17%	0.27%	0.47%	0.21%	0.14%
Morgan	0.81%	0.37%	0.36%	0.79%	0.72%	0.78%	0.45%	0.37%	0.26%
Obion	0.42%	0.08%	0.60%	0.63%	0.63%	0.81%	0.34%	0.65%	0.58%
Overton	0.20%	0.19%	0.15%	0.35%	0.31%	0.37%	0.27%	0.26%	0.17%
Perry	0.21%	0.09%	0.19%	0.46%	0.46%	0.48%	0.23%	0.13%	0.02%
Pickett	0.10%	0.00%	0.00%	0.13%	0.13%	0.26%	0.06%	0.12%	0.09%
Polk	0.73%	0.39%	0.54%	1.00%	0.84%	0.93%	0.96%	0.81%	0.49%
Putnam	0.64%	0.34%	0.37%	0.84%	0.67%	0.83%	0.59%	0.48%	0.49%
Rhea	0.84%	0.64%	0.71%	1.38%	1.12%	1.26%	0.68%	0.61%	0.48%
Roane	1.07%	0.68%	0.72%	1.24%	1.03%	1.05%	0.79%	0.77%	0.69%
Robertson	1.31%	0.74%	0.91%	1.77%	1.44%	1.86%	1.37%	1.47%	0.99%
Rutherford	1.06%	0.66%	0.98%	1.92%	1.47%	1.89%	1.33%	1.35%	0.79%
Scott	0.28%	0.03%	0.02%	0.25%	0.25%	0.24%	0.34%	0.25%	0.13%
Sequatchie	0.76%	0.66%	1.02%	2.03%	1.77%	2.12%	1.05%	1.02%	0.77%
Sevier	0.74%	0.39%	0.77%	1.96%	1.63%	2.40%	1.89%	0.99%	0.65%
Shelby	2.29%	2.03%	2.60%	3.94%	3.44%	2.61%	1.41%	1.39%	1.03%
Smith	0.82%	0.49%	0.69%	1.15%	0.96%	1.10%	0.67%	0.70%	0.48%

County	2005	2006	2007	2008	2009	2010	2011	2012	2013
Stewart	0.72%	0.43%	0.30%	0.81%	0.70%	0.64%	0.39%	0.34%	0.36%
Sullivan	0.24%	0.07%	0.03%	0.32%	0.31%	0.51%	0.60%	0.58%	0.47%
Sumner	0.89%	0.51%	0.84%	1.61%	1.25%	1.52%	1.05%	1.20%	0.76%
Tipton	1.43%	0.88%	0.98%	1.97%	1.61%	1.25%	0.97%	1.25%	0.93%
Trousdale	0.85%	0.57%	0.80%	1.24%	1.07%	0.69%	0.84%	0.83%	0.68%
Unicoi	0.29%	0.32%	0.36%	0.46%	0.35%	0.61%	0.28%	0.43%	0.34%
Union	0.71%	0.45%	0.48%	0.86%	0.65%	0.90%	0.69%	0.53%	0.43%
Van Buren	0.51%	0.20%	0.27%	0.39%	0.31%	0.65%	0.42%	0.56%	0.30%
Warren	1.05%	0.49%	0.65%	1.23%	1.05%	0.77%	0.37%	0.53%	0.32%
Washington	0.58%	0.35%	0.47%	0.80%	0.64%	0.76%	0.51%	0.56%	0.51%
Wayne	0.43%	0.20%	0.27%	0.50%	0.44%	0.45%	0.35%	0.29%	0.21%
Weakley	0.69%	0.39%	0.47%	0.81%	0.65%	0.47%	0.41%	0.41%	0.32%
White	1.08%	0.46%	0.74%	1.12%	0.86%	0.94%	0.96%	0.66%	0.50%
Williamson	0.44%	0.20%	0.41%	0.96%	0.69%	1.63%	0.99%	0.65%	0.34%
Wilson	1.03%	0.49%	0.70%	1.28%	0.93%	1.29%	0.93%	1.02%	0.56%
Tennessee	1.05%	0.72%	0.95%	1.65%	1.39%	1.41%	0.94%	0.91%	0.66%

Source: Tennessee Housing Development Agency Foreclosure Trends Reports

Appendix B. The Collapse of the Housing and Financial Markets During the 2000s, the Slow Recovery, and Federal and State Responses—A Summary

Abandonment of Prudent Lending and Investment Practices

Obtaining a mortgage loan in the not-so-distant past was a fairly straightforward process (forgetting the then and current closing nightmare of signature after signature). A household saved enough to put down a 10% or better yet, a 20% down payment on a home, visited their local saving and loan association (S&L) or savings bank, and if they had a reasonable credit history, obtained a thirty-year mortgage (FHA or conventional loan). If the down payment was less than 80% of the purchase price, the borrower would likely be required to obtain mortgage insurance. Such insurance protected the lender from any downside losses if the loan went bad when the homeowner defaulted. The insurance payment was added to the monthly mortgage interest and principal payment, and continued until the homeowner's equity in the home rose to 20% or more.

The dominance of saving and loan associations and to a lesser extent, savings banks, both broadly known as thrifts, began in the early 1930s as a result of New Deal legislation designed to better control banking behavior and policies viewed as responsible for the excesses that led to the Great Depression. These early institutions were partly funded with loans from the Federal Home Loan Bank System (1932) and other assistance provided by the Federal National Mortgage Association (Fannie Mae in 1938). These federal agencies helped provide thrifts and commercial banks with the liquidity for long term loans and helped the housing sector of the economy recover from the great depression. Additional assistance to the mortgage and housing market came in the 1968 with the creation of Ginnie Mae, and then in 1970, Freddie Mac.

The depression era banking laws passed in the 1930s capped interest rates on savings accounts, and prohibited any interest on checking accounts. However the banking laws allowed thrifts to pay slightly higher rates on savings accounts (relative to rates offered at commercial banks) to attract deposits and use such funds to support their charter to assist in long-term housing finance. These thrifts generally specialized in home mortgage loans versus consumer loans. Thrifts were not allowed to offer checking accounts until the 1980s. Most of these mortgage loans were held in the portfolios of the institutions originating the loans. This Norman Rockwell banking landscape, with savings and loan associations and savings banks the preferred vehicle for saving accounts and mortgage loans changed dramatically during the 1970s and 1980s.

As a result of rapidly rising inflation (energy price-related) beginning in the mid-1970s, the Federal Reserve System, beginning in 1977, engaged in a deliberate policy intended to reduce inflationary pressures. The result of the Fed's actions was a rapid rise in interest rates throughout the economy. This in turn required thrifts to up the ante on what they paid

depositors to avoid an outflow of deposits to newly emerging competitive financial products. Raising rates to retain saving account depositors placed many S&Ls in a financially precarious position since their income was primarily generated from a portfolio of low fixed interest mortgage loans. The Federal Reserve System policy was eventually successful in reducing inflation, but unfortunately was also responsible for the double dip recessions in the early 1980s.

Five major financial laws were passed during the decade of the 1980s to deal with the clearly changing landscape in the financial market in the United States. They were the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA), the Garn-St Germain Depository Institutions Act of 1982 (Garn-St Germain), the Competitive Equality Banking Act of 1987 (CEBA), the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA).

DIDMCA initiated a phase-out of interest rates caps that applied to deposits, allowed all depository institutions to market NOW accounts (interest-bearing checking accounts), made all depository institutions subject to Federal Reserve rules, allowed banks to merge, and removed any caps (usury laws) on interest rates that could be charged on loans. The end result was various changes that allowed thrifts to compete more directly with commercial banks and for commercial banks to compete more directly with the thrifts.

The Garn-St Germain Act provided further deregulating changes by allowing all depository institutions to offer money market accounts that were insured to compete with existing non-bank money market mutual funds that had been draining deposits out of banks, increased the percent of loans thrifts could extend for personal and commercial purposes, and made mergers in some circumstances easier to accomplish.

These two acts together provided some temporary help to the thrift industry, but ongoing problems persisted, especially because of some excesses on the part of the thrift industry as it actively engaged in previously disallowed areas of financial activity, such as commercial loans. Despite the assistance provided to the thrift industry by these two acts, further deterioration of the thrift industry continued, eventually leading to the additional legislation noted above. Thrift problems continued through the early 1990s and by the end of 1995, the number of federally insured thrifts had fallen from 3,234 in 1986 to only 1,645, a decline of 50%.

Mortgage backed securities first appeared in 1968, and surprisingly were not the brainchild of aggressive private financial enterprise. They began as a method for the federal government to inject additional funds into the home mortgage market to foster increased home ownership as part of President Johnson's Great Society program. In 1968, Ginnie Mae issued the first of what would eventually become a major new type of security, the mortgage-backed security. Ultimately all three government Government Supported Enterprises (GSEs), Fannie Mae, Freddie Mac, and Ginnie Mae would use this financing device to provide a continuous flow of funds for the housing market.

Major characters, institutions, and financial instruments at center stage

The cast of characters, institutions, and financial instruments involved in the housing sector drastically changed during the first decade of the 21st century, with a few minor exceptions. Where available, the names of the major players and institutions during the period leading up to the real estate price and real estate-related financial collapse are provided:

1. ***The Borrower:*** This was generally a household, and most commonly an individual or married couple. Two complicating factors during the recent meltdown included (1) homes with not only a first mortgage, but also large numbers with second and even third mortgages (home equity loans and home equity lines of credit), and (2) an increase in the number of investor-owned homes after the collapse of the housing market.⁵⁶

In 2009, there were 76.4 million owner-occupied housing units.⁵⁷ Of that number, 24.2 million were owned free and clear. Total household sector mortgage debt in 2009 was over \$10 trillion.⁵⁸ In addition to owner-occupied housing, investor ownership of housing units increased, and a majority of these were purchased with some underlying debt.⁵⁹

2. ***The Loan Originator:*** This refers to the financial institution that originally created a loan that enabled a borrower to acquire real estate. These include commercial banks, mortgage banks and brokers, credit unions, and other saving institutions.⁶⁰ Loan originators frequently sell new mortgages quickly to other financial institutions that pool and package such loans into new securities (mortgage-backed securities or MBSs). The loan originator makes a profit from such sales and from servicing the loan (if the institution retains servicing rights on the mortgage), and is then able to turn around and make additional loans (assuming the demand for mortgage loans is strong and borrower credit is acceptable).⁶¹

⁵⁶ Following the housing bust, there has been an increase in investor purchase of foreclosed homes that were then refurbished and rented.

⁵⁷ U.S. Census Bureau. *The 2012 Statistical Abstract*, table 998. <https://www.census.gov/compendia/statab/>.

⁵⁸ Source: Federal Reserve website: http://www.federalreserve.gov/apps/FOF/Guide/P_104_coded.pdf (accessed 1/13/2014).

⁵⁹ A relatively large number were also purchased with cash by large private equity investment businesses.

⁶⁰ Most of the saving and loan associations and savings banks that played a major role in the distant past disappeared over the last 50 years.

⁶¹ The loan originator is responsible for insuring the appropriateness of the loan (credit history, employment history, loan to value ratios, ratio of monthly debt payments to monthly income, property appraisal, and owner-occupancy status (owner lives in property or just an investor). If the loan is later sold to securitizers or others, the originator can be held financially responsible for any losses that occur that be traced back to faulty originations.

3. A majority of the financial institutions that dominated the mortgage origination business back in the Wild West days are gone, including Countrywide, Washington Mutual, National City Bank, American Home Mortgage, Wachovia Mortgage, New Century Mortgage, and IndyMac Bank.⁶² Many of these institutions specialized in subprime loans or held MBSs that consisted of many subprime loans. During the three-year period 2005-2007, Countrywide alone originated over \$1.3 trillion in home mortgages.⁶³ Unfortunately, the mantra of the time during the heydays of the 2000s was originate-to-sell,⁶⁴ even if the “originate” side of the operation involved poorly documented and ultimately toxic loans.
4. Loan Servicer: This is the financial institution or business that services the loan; this could be the originator, but not necessarily. For mortgages pooled into securities, the servicer is chosen by the securitizer (also known as the sponsor). Servicers are paid a fee for handling monthly mortgage payments (monthly interest and principal payments and in some cases, property taxes and insurance premiums). The fee is usually a function of the size of the outstanding mortgage.⁶⁵ Servicers also receive additional fees when problems arise, such as in a default, when additional fees (legal fees, late fees, etc.) can be added to outstanding unpaid monthly payments.
5. When mortgages go into default, the servicer is usually the entity that makes decisions on workouts,⁶⁶ including modification of the terms of the loan, short sales, and foreclosure. In such situations, the servicer is generally expected to make such decisions in the sole interest of the owners of the mortgage (in the case of mortgages held in a securitized MBS, in the interest of the investors). In the many cases where the servicer was not also the owner of the mortgage, the servicer itself is not at risk for any losses resulting from any workout. At the end of 2007, the five largest servicers of high-risk mortgages were Bank of America, Wells Fargo, CitiMortgage, Chase Home Finance, and Washington Mutual.⁶⁷

⁶² O'Brien, Matthew. 2012.

⁶³ See page 3 of federal suit against Bank of America.
<http://www.justice.gov/usao/nys/pressreleases/October12/BankofAmericanSuit/BofA%20Complaint.pdf>
(accessed August 20, 2013).

⁶⁴ Versus originate-to-hold as had been true when the mortgage market was dominated by savings and loan associations and savings banks.

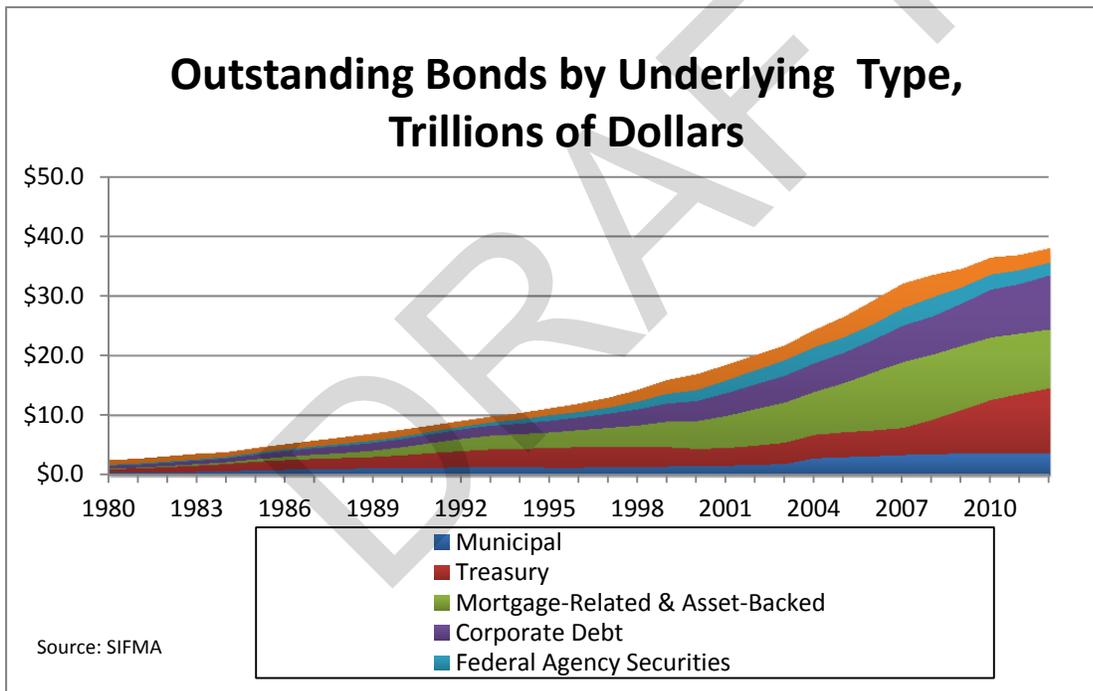
⁶⁵ A standard fee is .25% of the outstanding loan balance, or \$250 per year on a \$100,000 mortgage. Servicing problem loans generally pays higher fees.

⁶⁶ Refers to the various options available to servicers in dealing with delinquent mortgages.

⁶⁷ Federal Reserve Bank. 2008. The Incentives of Mortgage Servicers: Myths and Realities.
<http://www.federalreserve.gov/pubs/feds/2008/200846/200846pap.pdf>, page 14 (accessed 11/17/2013). In 2013, the five largest servicers were Ally/GMAC, Bank of America, Citigroup, JPMorgan Chase, and Wells Fargo. Also see <http://www.tn.gov/attorneygeneral/cpro/mortgageservicing.html> (accessed November 11/1/2013).

6. *MBSs, CMOs, and CDOs*: Securities (bonds) created when financial institutions pool mortgages and other asset-backed debt they own into securities (securitization using the mortgages and other types of income producing debt as collateral). The interest income, and in the case of mortgage-backed securities, principal payments, are ultimately paid to the investors who own the securities.

Some of these bonds are somewhat straightforward (mortgage-backed securities or MBSs), and some financially very complicated (collateralized debt obligations or CDOs⁶⁸). It is important to appreciate the fast growth of these securities during the 2000s, as well the importance of these securities in the total outstanding bond market in the United States. In 2008, as the housing market and everything related to the housing market were collapsing, outstanding mortgage-related bonds (\$8.4 trillion) exceeded both outstanding treasury bonds (\$5.8 trillion) and outstanding corporate bonds (\$6.4 trillion).⁶⁹



⁶⁸ CDOs contain combinations of MBSs, and other asset-backed securities, such as securities backed by vehicle loans, and student loans.

⁶⁹ Outstanding Treasury bonds now exceed mortgage and asset-backed bonds due to the large amount of federal borrowing required during and after the recent recession. Data for chart from Securities Industry and Finance Market Association (SIFMA) at www.sifma.org/uploadedfiles/research/.../cm-us-bond-market-sifma.xls (accessed October 15, 2013).

7. Securitizer (a.k.a. Sponsor): These are institutions that pool mortgages into securities such as MBSs and CDOs. The process involves buying mortgages (originated by themselves or purchased from others), placing them in a trust, issuing securities (representing pieces of the trust) using the underlying mortgages as collateral, and selling the securities to willing investors. The trustee of the trust distributes the interest and principal payments received from the servicer to the investors.

Most government issued mortgage-backed securities are issued by Government Sponsored Enterprises⁷⁰ (GSEs), primarily the Federal National Mortgage Association (FNMA a.k.a. Fannie Mae), and the Federal Home Loan Mortgage Corp (FHLMC a.k.a. Freddie Mac). In addition to these two GSEs, Ginnie Mae (an agency of the federal government) also plays a role in the issuance of mortgage-backed securities, and the security issues of all three institutions are generally referred to as "agency issues."⁷¹ The GSEs and Ginnie Mae insure mortgage payments of such MBS when default occurs, making these securities attractive to investors seeking to minimize risk.⁷²

Non-agency issued securitizations are called private label issues, created by banks and mortgage banks. Major players in private label securitizations during the years leading up to the housing and financial bust included Bank of America, Citigroup, GMAC (now Ally Financial), IndyMac (bankrupt), Washington Mutual (bankrupt), JPMorgan, Wells Fargo, Bear Sterns (bankrupt), Goldman Sachs, Lehman Brothers (bankrupt), Merrill Lynch (taken over by Bank of America), UBS (bailed out by Swiss Government), and Countrywide (bought by Bank of America).⁷³ During the height of the market in the 2000s, private label issues consisted heavily of subprime mortgages and for a time, new private label issues of mortgage-backed securities exceeded government agency

⁷⁰ GSEs were created by Congress with the purposes of facilitating the availability of credit in support of specific government programs, such as housing, farming, education and others. GSEs are not agencies of the federal government, but quasi-private public partnerships.

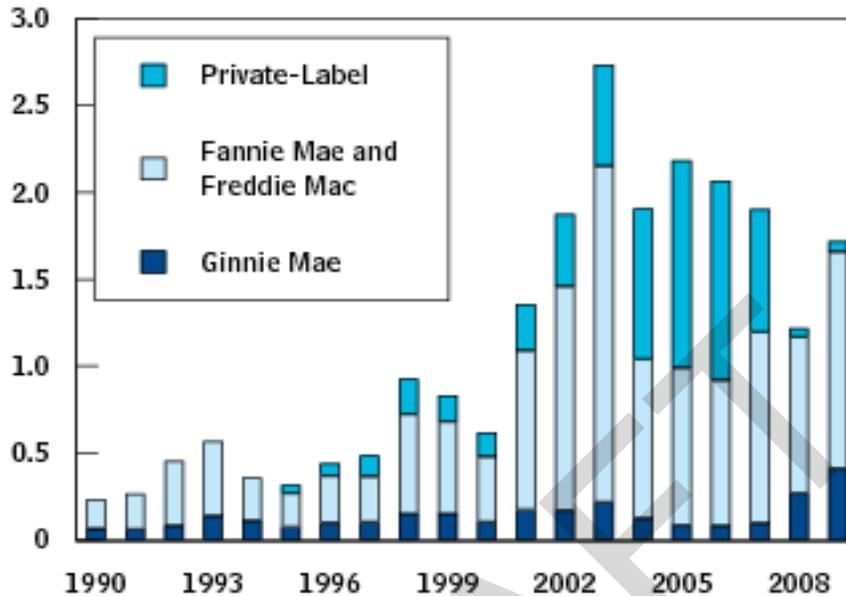
⁷¹ Ginnie Mae does not originate loans, nor buy loans, nor does it pool mortgages into MBSs. It does insure payment of interest and principal to investors of RMBSs (residential mortgage-backed securities) that consist wholly of FHA and certain other federal agency insured loans. Financial institutions that follow strict guidelines set up by the respective federal agencies are approved by Ginnie Mae and can then securitize such loans. Such issues are called Ginnie Mae MBSs. They generally represent the most riskless of MBS issues.

⁷² Freddie and Fannie both had to be bailed out by the federal government in 2008 when heavy defaults on mortgages pooled in their MBS issues required the GSEs to make good on their guarantee payments to MBS investors, and when their own holdings of MBSs declined in value.

⁷³ Countrywide was the largest private label issuer in 2005, accounting for 16.1% of all private label issues. See *Inside MBS & ABS*, January 27, 2006. http://www.insidemortgagefinance.com/issues/imfpubs_ima/2006_4/news/1000003123-1.html (Accessed 11/7/2013).

issues.⁷⁴ See figure 2 for MBS issuances by year and by issuer type. When the housing market collapsed, so did the private label MBS market (beginning in 2007).

Value of mortgage-backed security issuances in \$USD trillions, 1990-2009.



Source: Securities Industry & Finance Market Association (SIFMA) statistics, structured finance

8. Mortgage Electronic Registration Systems (MERS): This is a system created and designed by mortgage and financial institutions to track changes in mortgage ownership and transfers more efficiently. The process evades costly and frequent changes in records of local tax offices as well as the fees local and state governments impose on changes in property records such as current mortgage holders and liens.

The creation of MERS enabled the rapid growth in mortgage-backed securities by providing a tracking mechanism for each and every mortgage collateralized within a MBS. While MBS have existed since 1970, without MERS, it is unlikely that the rapid growth in MBS (see chart above) would have been possible. In many ways it was created for reasons similar to those faced by the securities industry during an earlier period, when the burdensome challenge of tracking and handling paper stock certificates was finally replaced with an electronic book entry system.⁷⁵

⁷⁴ Many of the foreclosures in the Shelby County area involved subprime mortgages that ultimately would up in private label securitizations (mortgage-backed securities issued by non-federal-agency financial institutions).

⁷⁵ Depository Trust and Clearing Corporation (DTCC).

9. Trustee: This is a legal entity chosen by the securitizer to represent the interests of investors in an asset-based security. A trustee is most often a unit of a major financial institution that offers trust services. Trustees perform many custodial duties including distributing interest and principal payments received from servicers (who collect these payments from borrowers) to investors in the security. The top five MBS trustees for private label MBSs trusts issued during 2004-2007 were U.S. Bank, Deutsche Bank, Bank of NY Mellon, Wells Fargo, and HSBC Bank.⁷⁶
10. Sometimes allegiances of trustees conflict with securitizers and servicers, as well as with different investor groups in the securitized instrument. Recent litigation over the fiduciary responsibilities of trustees continues to grow as trustees often were placed in untenable and ambiguous positions of having to balance competing investor interests within the same asset-backed security.⁷⁷ When defaults and losses occur or are likely, servicers and to a much lesser extent, trustees, play a role in making decisions on loan modifications, foreclosures, and other “default resolution strategies to mitigate losses in connection with defaulted assets.”⁷⁸ The responsibilities of servicers and trustees of a MBS are usually spelled out in detail in a “Pooling and Servicing Agreement (PSA).” A PSA spells out the rights and responsibilities of all parties to a MBS.
11. MBS Investors: Investors include Fannie Mae and Freddie Mac who hold billions of MBSs in their own portfolios, pension funds, insurance companies, state and local governments, foreign governments and banks, domestic financial institutions, mutual funds, and even the US Federal Reserve who has recently started to buy and hold MBSs. Most of these investors purchased MBSs and ABSs seeking higher returns than available from many corporate and government securities with comparable risks, an assumption that would haunt many investors for years to come. The losses that occurred in MBSs during the housing bust were felt not only in our economy, but the world at large. Litigation over the losses continues today and most likely will continue well into the future.⁷⁹
12. Taxpayers In General: When the federal government bailed out Fannie and Freddie by guaranteeing payment of mortgage and interest by defaulting homeowners to those who invested in the MBS that contained such mortgages, taxpayers in general footed the bill. In addition to the bailout of Fannie and Freddie, various federal programs funneled trillions of dollars in aid to the major private financial institutions in danger of

⁷⁶ Szymoniak. 2013.

⁷⁷ The extent of MBS trustee’s fiduciary responsibilities remains an unsettled issue. See <http://blogs.reuters.com/alison-frankel/2013/05/08/are-mortgage-backed-securities-bonds-or-equity-2nd-circuit-to-decide/> and *The Role of Trustees in the MBS Market and Developing Litigation* at <http://www.themis.us.com/wp-content/uploads/2013/07/130903-Trustee-Litigation-Article1.pdf>.

⁷⁸ *ibid*, page 5-6.

⁷⁹ Melendez 2013.

collapse at the time,⁸⁰ and since the slow recovery, federal programs have been implemented that provide assistance to homeowners in danger of foreclosure. The total cost to the taxpayer of all these programs is yet to be determined.⁸¹

After the collapse of the housing bubble, delays upon delays

The run-up to the housing bust seemed to benefit all the participants. Borrowers found easy financing for homes as well as easy financing for home equity loans, and home values kept rising, originators made money providing the mortgages and then selling the mortgages (originate-to-sell), servicers made money servicing the loans, securitizers made money pooling mortgages into MBSs, trustees made money providing trustee services for the securities that were sold, and investors, who purchased the securities because they generally paid 1-2% more than equivalent U.S. Treasury securities, and generally had risk ratings similar to U. S. Treasury securities (AAA).

The various participants did not fare so equally during the housing bust. Understanding the participants and institutions in the previous section of the report provides a foundation for understanding how the various participants fared on the downside, especially the slow resolution of mortgage defaults and the foreclosure process, and indirectly to the development of blight in several major housing markets.

First some clarification about the different participants in the mortgage process described above. Many originators, servicers, securitizers, and mortgage-backed security trustees were (and still are) often parts of a single larger financial corporation (many of which have departments, units or divisions that perform such functions). As a result there were and continue to be clear opportunities for conflicts of interest among these participants, as one division of a large financial business is in a position to make decisions that affect, sometimes negatively, the interests or activities of another division of the same institution. Such decisions usually involve foreclosures, short sales,⁸² and loan modifications that can affect not only its own bottom line, but also investors in bonds (MBSs) for which the same institution is trustee.

While a full discussion of the many possible conflicts that can arise among the various participants is beyond the scope of this report, one example is provided below. It specifically highlights the conflicting interests of loan servicing entities with the financial interests of MBSs investors. It showcases some obvious reasons that can arise for the slow pace of loan modifications and foreclosures observed in many "slow to recover" housing markets. The

⁸⁰ Roosevelt Institute 2011.

⁸¹ See summary description of programs at http://portal.hud.gov/hudportal/HUD?src=/topics/avoiding_foreclosure.

⁸² A short sale refers to the allowed sale of real estate by a lien holder for an amount less than the outstanding debt on the property. The defaulting property owner may or may not be liable for the difference (deficiency), depending on the agreement and the state in which it occurs.

problem is generally characterized or labeled as the “holdup problem” and usually involves properties that have both outstanding first-lien and second-lien mortgages.⁸³

Many subprime (or high cost) mortgage loans during the 2000s were securitized into private label MBSs. Mortgages collateralized into these securities were much more likely to fall into default than those pooled into MBSs issued and insured by federal agencies. A relatively high percent of properties financed by subprime first-mortgages also carried second mortgages and even third-mortgage liens (home equity loans and home equity lines of credit).⁸⁴ As a result, situations arose where the servicing business for the outstanding private label MBS was part of a larger financial organization that had provided the second or third mortgage on some of the properties included in the troubled MBS.

Servicers are generally in charge of making decisions on delinquent first mortgages (working out the problem) and are supposed to represent the best interests of investors who actually own the first lien on the mortgages pooled in an MBS. However in many situations, loss mitigation decisions that would be in the best interests of the investors are not necessarily in the best interests of the division of the financial institution that owns second and third mortgages secured by the same property as the first mortgage. When the servicer and the second (and third) lien holders are one and the same, a clear conflict of interest is present.

In such cases, actions that tend to delay outright foreclosure, such as short sales and loan modifications instead of outright liquidation tend to benefit junior lien holders over the first-lien holders. Not surprisingly, many of the major first mortgage servicers were also major holders of second mortgages on “underwater” homes, and would suffer significant losses if foreclosure sales were accelerated leaving nothing left for second lien holders.⁸⁵ The inevitable result is delay or “holdup” actions that may partly explain what was observed in several locations across the country, including Memphis.

Outright liquidation or foreclosure would benefit senior-lien holders since the funds recovered from such processes would first be used to compensate senior-lien holders, and only thereafter other lienholders. In contrast, loan modifications on the first mortgage would be more attractive to second mortgage holders, when the modification involves only the first lien.

An additional complicating factor that delays resolution of defaults and foreclosures is the bankruptcy process, especially in Tennessee. Tennessee has the unfortunate distinction of frequently having the highest (or second or third highest) bankruptcy filing rate (per 1000

⁸³ Federal Deposit Insurance Corporation 2012.

⁸⁴ Ibid. page 3.

⁸⁵ Second lien holders are less likely to share in any mortgage insurance payments by federal or private insurers when homes go into foreclosure or involve short sales.

population) in the country.⁸⁶ This is to a large extent due to the dubious distinction of Shelby County having the highest county bankruptcy rate (per 1000 persons) in the country.⁸⁷ Shelby County bankruptcies also reflect a very high rate of Chapter 13 bankruptcy filings versus Chapter 7 filings (more common).

US bankruptcy laws were changed in 2005⁸⁸ and made more creditor friendly and less debtor friendly.⁸⁹ Bankruptcy filings became more difficult and expensive. After some initial jumps in bankruptcy filings to get ahead of changes in the laws, more recent filings appear to show that the large number of foreclosures and bankruptcies that occurred were closely correlated. Filing for bankruptcy forestalls debt collection activity, including foreclosure activity. The delay varies depending on several factors, including whether the bankruptcy filing is a Chapter 7 (straight bankruptcy that usually involves a short delay), or a Chapter 13 filing (aka "wage earner plans" that can extend out to 3-5 years).

A Chapter 13 filing initially forestalls any foreclosure action on a home, and allows the debtor to rearrange payment of debts over a 3-5 year period under the supervision of a bankruptcy trustee. This includes paying off past due amounts on a mortgage. If a debtor can continue to be paid off over time and the debtor can stay in his or her home. While Chapter 13 filings in the United States (in 2012) represented only 30% of bankruptcy filings, Chapter 13 filings in Tennessee accounted for almost 54% of total filings. Chapter 13 filings in 2012 in the Memphis area represented almost 75% of total filings in the state.⁹⁰

Chapter 13 filings are not generally successful in allowing filers to retain home ownership, but do generally delay the foreclosure process if mortgage payments are not kept current. This additional delay adds to the types of delays already mentioned.

Longer-term programs and legislation

Longer-term programs and legislation, both federal and state, were designed to deal with the underlying causes of the housing and financial disaster that occurred, with the intent of avoiding a repeat in the future.

In the aftermath of the housing collapse, financial collapse, and the economic recession that followed, Congress acted on two major fronts. The Financial Crisis Inquiry Commission (FCIC) was created in May 2009 (Public Law 111-12) to "examine the causes, domestic and global, of

⁸⁶ The Tennessee rate per 1000 population was 6.73; the comparable United States figure was 3.76. FDIC data at http://www2.fdic.gov/RECON/ReconInternet/GenerateCountyTables?Table_Type=NBR&Parameter1=Tennessee&Parameter2=47&Selected_CountyCde=47157.

⁸⁷ Shelby County bankruptcy rate in 2012 was 14.1 (per 1000 population).

⁸⁸ Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

⁸⁹ Bankruptcy law does not allow for home mortgages to be modified in bankruptcy proceedings.

⁹⁰ Epley, Cole. 2013.

the current financial economic crisis in the United States”⁹¹ and report its finding by December 2010 (report was released in January 2011). The report proved controversial in its identifying and placing blame on various private and public institutions in the United States, partly reflecting the composition of the ten-member commission.⁹² The FCIC’s report⁹³ contained nine main conclusions:⁹⁴

1. We conclude this financial crisis was avoidable.
2. We conclude widespread failures in financial regulation and supervision proved devastating to the stability of the nation’s financial markets.
3. We conclude dramatic failures of corporate governance and risk management at many systemically important financial institutions were a key cause of this crisis.
4. We conclude a combination of excessive borrowing, risky investments, and lack of transparency put the financial system on a collision course with crisis.
5. We conclude the government was ill prepared for the crisis, and its inconsistent response added to the uncertainty and panic in the financial markets.
6. We conclude there was a systemic breakdown in accountability and ethics.
7. We conclude collapsing mortgage-lending standards and the mortgage securitization pipeline lit and spread the flame of contagion and crisis.
8. We conclude over-the-counter derivatives contributed significantly to this crisis.
9. We conclude the failures of credit rating agencies were essential cogs in the wheel of financial destruction.

At approximately the same time as the FCIC was created to investigate the causes of the financial collapse, the Obama Administration proposed drafting legislation to specifically deal with already identified contributing factors responsible for the housing and the financial collapse. The legislation was eventually introduced in the House of Representatives in December 2009 and called “The Wall Street Reform and Consumer Protection Act.” The original legislation went through some changes and was finally signed into law on July 21, 2010.⁹⁵ The general purpose of the legislation is summed up in its opening paragraph: “To

⁹¹ Section 5(a) of Public Law 111-12. <http://www.gpo.gov/fdsys/pkg/PLAW-111publ21/pdf/PLAW-111publ21.pdf> (accessed 12/13/2013).

⁹² Commission had six democratic members and four republican members.

⁹³ The republican members released a separate dissenting report.

⁹⁴ Directly quoted from Final Report (pages xvii-xxv) <http://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf><http://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf> (accessed 12/13/2013).

⁹⁵ Public Law 111-203. <http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf> (accessed 12/15/2013). It was finally named the Dodd-Frank Wall Street Reform and Consumer Protection Act in honor of its

promote the financial stability of the United States by improving accountability and transparency in the financial system, to end 'too big to fail,' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.”

The law runs almost 850 pages and contains sixteen major provisions dealing with a vast array of financial transactions, financial institutions, both private and governmental, and financial regulation and supervision. Most of the provisions in the law required significant new rule making, many of which have yet to be finalized.^{96 97} The general provisions in the law are:

1. Financial Stability
2. Orderly Liquidation Authority
3. Transfer of Powers to the Comptroller of the Currency, The Corporation, and the Board of Governors
4. Regulation of Advisers to Hedge Funds and Others
5. Insurance
6. Improvement to Regulation of Bank and Savings Association Holding Companies and Depository Institutions
7. Wall Street Transparency and Accountability
8. Payment, Clearing and Settlement Supervision
9. Investor Protections and Improvement to the Regulation of Securities
10. Bureau of Consumer Financial Protection
11. Federal Reserve System Provisions
12. Improving Access to Mainstream Financial Institutions
13. Pay It Back Act
14. Mortgage Reform and Anti-Predatory Lending Act
15. Miscellaneous Provisions
16. Section 1256 Contracts

The law was intended to fix many of the harmful behaviors and practices identified as factors in the financial collapse. A few of the most noted problems the law attempts to solve include:

active sponsor in the house, Representative Barney Frank, and its active sponsor in the Senate, Senator Chris Dodd.

⁹⁶ Morrison and Foerster. 2010.

⁹⁷ U.S. Senate Committee on Banking, Housing, and Urban Affairs. 2010.

- Prohibition against commission payment to mortgage brokers that provide incentives for brokers to direct borrowers to higher cost loans when borrowers are eligible for lower cost loans.
- Rules requiring proper documentation of all mortgage loans.
- Requirement that loan originators keep part of mortgage loans in their own portfolio (“have skin in the game”).
- Expansion of existing laws that protect whistleblowers who call attention to ongoing financial abuses.

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