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Inside a Plan to Save Homeowners Hundreds of Dollars Closing Their Mortgages

Excerpts of January 16, 2024 Article By WSJ Reporter Andrew Ackerman

WASHINGTON—A government-controlled mortgage giant has a plan that could help more Americans save around \$1,000 on closing a mortgage, the latest attempt to chip away at high costs that officials say discourage home buying.

Fannie Mae last month said it would expand the types of mortgages it will purchase that rely on a cheaper alternative to title insurance, which is one of the biggest fixed costs tied to closing a mortgage.

The alternative, called an attorney-opinion letter, allows a real-estate attorney to essentially attest that there are no problems with a property's title. The average borrower relying on such a letter has saved more than \$1,000 compared with more traditional title insurance, Fannie said.

The Biden administration has directed Fannie and its smaller counterpart Freddie Mac to find ways to make housing more affordable, with particular attention to closing costs such as title insurance, which can run into the thousands of dollars on a property. Added competition in the title insurance space could over time bring down such costs, proponents say.

The administration has also faced limitations in how it can tackle housing costs, with elevated mortgage rates and high home prices.

Policy changes by Fannie and Freddie are important because they backstop roughly half of the roughly \$14 trillion mortgage market. That means their standards play a big role in determining who gets access to mortgage credit and on what terms.

A title declares who has legal ownership of a property. Title insurance offers protection in case someone later says they had a claim against it. Attorney-opinion letters are an alternative to title insurance but aren't insurance products. Freddie also accepts attorney-opinion letters, but on a more limited basis than Fannie.

The title-insurance industry has objected to Fannie's moves, characterizing opinion letters as unregulated products that expose consumers and lenders to unneeded risk.

Attorney-opinion letters were once widely used, but title insurance grew in popularity because there were limited options for recovering losses from the attorneys issuing opinion letters, according to a recent paper on title insurance commissioned by the Mortgage Bankers Association. The industry group doesn't have a position on title insurance alternatives.

Now, critics say that title insurance is overpriced, claims are rare and that digital access to public records makes it easier to confirm that a title is “clean.”

Backers say attorney-opinion letters provide a similar amount of protection to title insurance at lower cost to the borrower because the letters aren’t subject to state-level title regulations that set the cost of insurance policies in some jurisdictions.

One lender (United Wholesale Lending) that has embraced attorney-opinion letters said they typically come with an insurance policy that protects against errors or omissions in an attorney’s title examination.

Since 2009, Fannie has purchased more than 10,000 mortgages with attorney-opinion letters and hasn’t experienced losses from title claims on these loans, according to the mortgage company.

Fannie said in December that it would expand the types of loans for which it accepts opinion letters to include condos and properties that may face restrictions because of a homeowners association. An internal review of Fannie’s distressed loans showed condos were less likely than other mortgages to have title issues, the company said. It also said low-income and first-time home buyers pay disproportionately more in closing costs, and condos can be an affordable option for those buyers.