Housing recovery: Why certain states are getting out of the crisis faster

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(Phys.org)—America's housing market is finally starting to really recover from the Great Recession, but some areas of the country are fighting back faster than others. New research from the W. P. Carey School of Business at Arizona State University indicates one reason: Different states have dramatically different mortgage laws, and some make it easier to push through tough times.

"The laws across states use different legal theories as the basis for mortgages, and they balance the rights of creditors and borrowers very differently," explains Andra Ghent, assistant professor of real estate in the W. P. Carey School of Business. "The variations started early in America's history, and they're not really based on economic reasons, but they're still having a major influence on what's happening now with the housing market."

Ghent runs through a few main issues playing a role in whether a state already has gotten through the worst of the housing crisis or whether it's still plodding along:

- Some states require judicial involvement in foreclosures, while others don't.
- Some states require a massive amount of paperwork, including the original promissory note, in order for a lender to foreclose.
- Some states require a longer "redemption period" of time, during which the borrower can be behind on payments, before a

foreclosure can happen.

Ghent says, in general, many of the states that don't require judicial involvement or tons of paperwork have already run through the bulk of their foreclosures and are finally seeing rising property values. That's because the flood of cheap, foreclosed properties onto the market has stopped.

Arizona is one of the states in which the damage happened relatively quickly, and there's no longer a big backlog of foreclosures to go through the process. Phoenix-area home prices have been rising dramatically since last fall.

"The key is quick resolution of the situation," says Ghent. "For example, if a state requires a longer period before foreclosures can happen, then that generally means the homes deteriorate more as the borrowers realize they're going to have to leave and stop taking care of the property. This is bad for the neighbors and the property values."

Ghent adds she doesn't see much renegotiation during the times leading up to the foreclosures. The rules just allow for drawing out the situation.

"New York and Florida, for example, have very slow foreclosure processes," Ghent says. "Properties can sit around without any maintenance for two to four years while they work their way through the maze, before they finally get a new owner."

Ghent also doesn't think that making more foreclosures go through the judicial process will help prevent problems like robo-signing. That's where some lenders didn't properly review all the individual details of the cases or follow all of the required procedures.

"In most of those cases, the borrowers were really behind on their payments and would eventually have lost the homes, anyway," Ghent says. "Fraud is unacceptable, but it was also a case of sheer volume. If those particular states had required less paperwork, that's what might actually have helped prevent more robo-signing."

Ghent emphasizes that getting rid of the patchwork of different state laws would ultimately benefit the housing market as a whole.

"Can you imagine how much money, time and resources we could save, if we didn't have 50 different sets of laws, paperwork and legal-expertise requirements?" she asks. "Again, there appears to be no real economic reason for the differences. Many of these laws date all the way back to the 1800s, and some were changed just after the Great Depression."

Overall, Ghent has one big message for those who can influence the process in the future.

"Nobody pays attention to mortgage laws for 50 to 60 years at a time," she says. "They only examine these laws after a major event, so the time to change is now."

More information: papers.ssrn.com/sol3/papers.cf … ?abstract_id=2166656

Provided by Arizona State University

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