Banking and Finance Law Daily Wrap Up, MORTGAGES—Senator Warren requests mortgage settlement records as 'zombie mortgages' resurface, (Dec. 18, 2025)

Banking and Finance Law Daily Wrap Up

Click to open document in a browser

By A. Bryan Gerepka

The Senator is concerned that debt collectors may be using extinguished second mortgages to foreclose on Americans' homes.

In the wake of reports that debt collectors are using "zombie" second mortgages to foreclose on homes, Senator Elizabeth Warren (D-Mass.) is requesting records of mortgages that were extinguished under the 2012 National Mortgage Settlement. It appears that banks may have received credit for extinguishing mortgages under the terms of the settlement and then turned around and sold those same loans to debt collectors, the Senator wrote in a Dec. 16, 2025, letter to Joseph A. Smith Jr., Independent Monitor, Office of Mortgage Settlement Oversight.

Sen. Warren requested that the Independent Monitor provide the following information, if available, no later than Jan. 7, 2026:

- Any records related to the second mortgages that were extinguished under the terms of the National Mortgage Settlement, including, for each: the lender name, loan number, borrower name, loan amount and amounts extinguished, date of extinguishment, and any other relevant identifying information for each loan.
- Any records related to the second mortgages that were extinguished under the terms of the other settlements you monitored, including, for each: the lender name, loan number, borrower name, loan amount and amounts extinguished, date of extinguishment, and any other relevant identifying information for each loan.
- Any communications between yourself and the defendants related to the extinguishment of second mortgages.

Background. During the housing boom of the 2000s, lenders encouraged borrowers to take out second mortgages to cover the 20% down payment required to purchase a home, Sen. Warren wrote. In 2006, these so-called "piggy-back loans" accounted for nearly 25% of home purchases, she added. After the housing market crashed, lenders rushed to foreclose and evict borrowers who had defaulted on their housing payments, leading to accusations of illegal foreclosure practices.

Under the terms of the 2012 National Mortgage Settlement, the five largest servicers—Bank of America Corporation, JPMorgan Chase & Co., Wells Fargo & Company, Citigroup Inc., and Ally Financial Inc.—reached a $25 billion settlement with 49 of the state attorneys general and the federal government to resolve allegations of foreclosure and servicing abuses. Most of the funds were earmarked for borrowers' relief, including extinguishing second mortgages, Senator Warren noted.

Servicers forgave more than $15 billion of second mortgages and earned a set amount of 'credit' for these extinguishments towards their settlement obligations. In return, Sen. Warren continued, homeowners "were supposed to be able to move forward with their lives without these second mortgages hanging over their heads."

Given how many second mortgages were extinguished as part of the settlement agreement, "I am concerned that banks may have received credit for extinguishing second mortgages in the settlement, when in fact they sold those loans to debt collectors," Sen. Warren stated. The Senator noted that there have been numerous cases of homeowners who had stopped receiving statements on their second mortgage, received tax documents stating

© 2026 CCH Incorporated and its affiliates and licensors. All rights reserved.

that their second mortgage was cancelled, or had the loans removed from their credit reports, and then learned that the second mortgage was still active.

Companies purchased millions of dollars of these second mortgages—and waited to collect until home prices rose. “Now, Americans who thought they were doing everything right learned, in many cases, many years later, that debt collectors seeking to exploit the increase in their home valuations were going to foreclose on their homes,” she concluded.

Companies: Ally Financial Inc.; Bank of America Corporation; Citigroup Inc.; JPMorgan Chase & Co.; Wells Fargo & Company

LegislativeActivity: BankingOperations ConsumerCredit DebtCollection FairCreditReporting Loans Mortgages UDAAP

© 2026 CCH Incorporated and its affiliates and licensors. All rights reserved.