Subsidiaries handling foreclosures pay off for Bank of America

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Bank of America has found a way to make money through foreclosures by using a complicated web of subsidiaries. The process begins with a company called ReconTrust, which handles 1 in 5 Bay Area foreclosures.

A wholly owned subsidiary of Bank of America, the Simi Valley company serves as the foreclosure trustee for the bank. Bank of America relies on ReconTrust to file documents that initiate a foreclosure on its behalf. However, in some cases, ReconTrust substitutes itself on loans Bank of America did not originate, the Center for Investigative Reporting and NBC Bay Area found.

Charlotte, N.C.-based Bank of America plays the largest role of any bank in Bay Area foreclosures. From July 2008 through October, its foreclosure trustee, ReconTrust, handled 1 in 5 defaulted properties in the Bay Area.Chuck Burton/Associated Press file photo

Mortgage servicers, such as BAC Home Loans Services – another Bank of America subsidiary – collect fees and late charges on behalf of the bank. Legal analysts Adam Levitin, Kurt Eggert and Diane Thompson say this business model creates built-in incentives for servicers to keep homeowners in default for extended periods of time, rather than agreeing to a loan modification or setting a foreclosure date.

“For servicers, the true sweet spot lies in stretching out a delinquency without either a modification or a foreclosure,” Thompson wrote in a 2011 law review article. “Late fees and other default-related fees can add significantly to a servicer’s bottom line, and the longer a homeowner is in default, the larger those fees can be.”

Bank of America spokeswoman Jumana Bauwens said properties in default are costly for the bank. “The bank has lost significant amount (sic) of money on delinquent loans,” she said in an email.

If homeowners don’t pay the late fees themselves, investors who buy mortgage-backed securities can end up footing the bill when a home is resold, loan agreements show.

From July 2008 through October, Bay Area homeowners defaulted on more than 184,000 mortgages. One-fourth of these have been in default status for more than three years, data compiled by RealtyTrac Inc. shows. The statewide average is 335 days.

Many of these loans were managed by the servicing arm of Countrywide, which was acquired by Bank of America in 2008 along with its foreclosure trustee, ReconTrust.

In 2010, Countrywide paid $108 million to settle a lawsuit with the Federal Trade Commission in which the company was accused of marking up servicing fees "often by 100 percent or more" to offset losses from delinquent homeowners, the commission said. Countrywide admitted no wrongdoing in the settlement.

Earlier this month, Countrywide agreed to pay $500 million to settle a class-action lawsuit filed in 2007, which alleged that the company misled investors on mortgage-backed securities.

Since acquiring Countrywide, Bank of America has continued to make millions of dollars by servicing loans. Last year, it earned $4.7 billion in servicing fees alone, according to the bank's most recent U.S. Securities and Exchange Commission filing.

While the money adds up, so do consumer complaints.

More than 15,000 Bank of America customers have filed mortgage-related complaints with the federal Consumer Financial Protection Bureau since 2011. That is 7,000 more than the next closest competitor, Wells Fargo.