Mortgages

- Mix of property and contract
  - Promissory Note
  - Mortgage
- *Mortgagor* – grantor of security interest in the land (house buyer)
- *Mortgagee* – this is the one lending the money (bank)
- *Equity* – difference between value of land and security interest granted
  - also called *equity of redemption*

Mortgages

- Model mortgage:
  - buyer (Mortgagor) contributes 20% equity
  - fixed interest rate
- Does selling the mortgaged property get rid of the mortgage?
  - runs with the land
- Purchaser takes **subject to the mortgage**
- Purchaser takes **assuming the mortgage**
  - Original mortgage may have a no assumption clause
- **Due on sale** clause

Mortgages

Suppose Joan Watson wants to sell her house to Sherlock Holmes. She still owes $400,000 on her house; Holmes will be buying it for $500,000. But she doesn't have $400,000 in the bank to pay off her mortgage, which has a due on sale clause. How can she accomplish the sale?

- Before sell, what is Joan Watson's equity?
- What happens to the mortgage upon sell?
- Likely a new mortgage?
    - How much money "out of pocket" will Holmes likely pay at purchase?
    - This creates how much equity for Holmes?

Foreclosure

- Initially – must pay on “law day” or lose property
  - What if M’or had some equity?
- Created equity of redemption
  - But how is it extinguished?

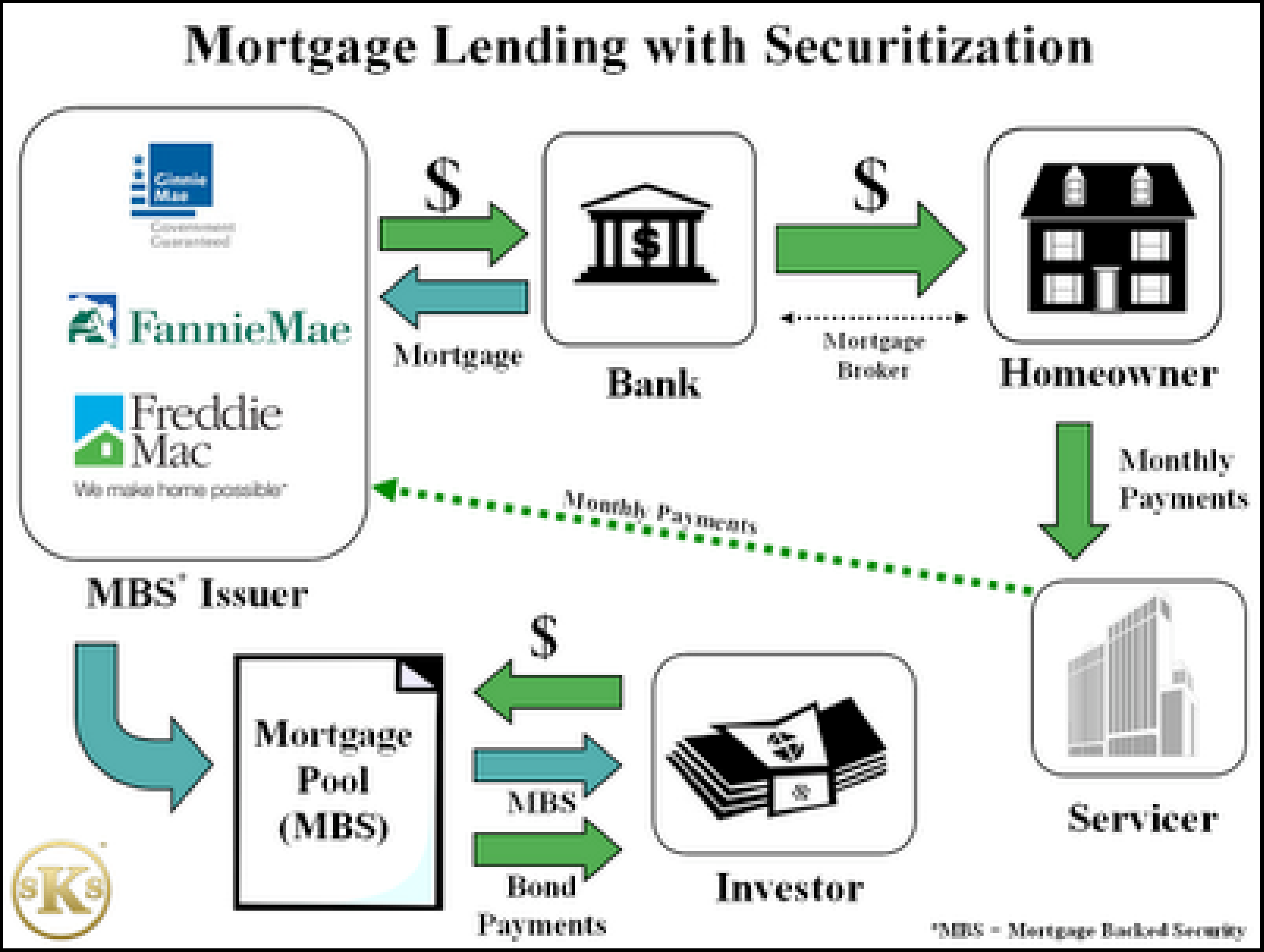
- *Strict Foreclosure* – notice, hearing, and court decree – title goes to Mortgagee (not used much)
- *Foreclosure Sale* – notice and hearing and then judicially ordered sale (auction)
- *Deed of Trust* – notice and wait time and then Mortgagee conducts sale (a little faster)

- All of this to cut off *equity of redemption*

Foreclosure

- Foreclosure sale likely to get market value?
- What happens if foreclosure sale not enough to cover mortgage?
  - Upside down
  - Due process safeguards
- Recourse loan
- Nonrecourse loan

Betty Finn buys a house for $450,000. She puts down $90,000 and takes out a mortgage for $250,000 from Heather Chandler, and a second mortgage for $110,000 from Veronica Sawyer. When Betty defaults, the house is sold for $500,000 at foreclosure. Assuming the amounts due on the mortgages haven't changed at all, how should the proceeds be distributed? What would the answer be if the house brought $350,000 at foreclosure?


Mortgage Lending with Securitization
Ginnie Mae
Government Guaranteed
FannieMae
Freddie Mac
We make home possible
MBS* Issuer
$
Mortgage
Bank
$
Mortgage Broker
Homeowner
Monthly Payments
Monthly Payments
Servicer
$
Mortgage Pool (MBS)
MBS
Bond Payments
Investor
*MBS = Mortgage Backed Security

McGlawn v. Pennsylvania Human Relations Comm'n

- McGlawn mortgage broker
- Brokers mortgages to Taylor and Poindexter (and others)

- Relevant attributes of these brokered mortgages:
  - Interest rate
    - Compare to prime rate
    - Compare to previous mortgage interest rate
  - Settlement fees
  - Yield spread premium
  - Other fees
  - Fraud
  - Essentially all to African-Americans
- What is a subprime mortgage?

McGlawn v. Pennsylvania Human Relations Comm'n

- What is the claim?
- Reverse Redlining

- (1) Predatory Lending
  - Why did the M'ors accept these?
  - Why would M'ee accept mortgages with high likelihood of default?
  - What if we just had a high interest rate?
  - What about lender's liability?

McGlawn v. Pennsylvania Human Relations Comm'n

- (2) Intentional Discrimination
  - Advertise "one of the first African American owned and operated"
  - Advertise on radio station
  - Disparate Impact
  - Fact no non-African-American loans?
  - Just where they were located?
  - What if there are no mortgages available for better terms?

- Remedy?
- Moral hazard problem?