

Nationwide Mortgage Foreclosure Settlement: Lip Service or Real Solutions?



By Charles R. Gallagher III

It appeared that help was on the way for millions of homeowners in foreclosure or underwater when the terms of the nationwide mortgage foreclosure settlement were recently announced by attorneys general for 49 states. So what does this mean for homeowners? Does it provide any real help? Here is the breakdown of the proposed settlement.

Lenders Included in Settlement

Not all lenders are included in the settlement. Only Bank of America, JP Morgan Chase, Wells Fargo, Citigroup and Ally Financial are parties to the settlement. Loans with Fannie Mae or Freddie Mac (or any other lender) are not part of the settlement terms.

Underwater Homeowners

The settlement includes \$17 billion for principal reduction for homeowners underwater and behind on their mortgages. These terms include principal reductions for up to one million homeowners nationwide, but the average reduction in principal is only expected to be \$17,000. There is no guarantee that all underwater homeowners will be helped.

Improper Foreclosures

For those who were victims of fraudulent foreclosure practices, the settlement provides for damages in the amount of \$2000. Approximately \$1.5 billion of the settlement will go to homeowners who had their homes wrongfully foreclosed upon between January 1, 2008 and December 31, 2011 as a result of robo-signing or

other lender fraud. This payment does not prevent homeowners from suing their bank for an improper foreclosure.

Lender Penalties

The terms of the settlement also include an agreement between the states, the Federal Reserve and the banks (Bank of America, JP Morgan Chase, Wells Fargo, Citigroup and Ally Financial) to pay \$766.5 million in sanctions for fraudulent servicing practices.



Lender Immunity

A large feature of the settlement includes immunity for Bank of America, JP Morgan Chase, Wells Fargo, Citigroup and Ally Financial from civil liability and federal government claims. However, the immunity does not prohibit criminal prosecutions by the states, lawsuits brought by individual borrowers, claims related to the ratings of the loans or claims

related to the securitization of mortgages.

Recently, reports have surfaced that loopholes are allowing lenders to use the money to their own advantage. Write-offs for the penalties have allowed lenders to mitigate their own losses, but appreciable assistance has failed to trickle down to homeowners. It is estimated that of the \$25 billion contribution so far, only 40.8%, or \$10.2 billion has been used to reduce principal balances for homeowners who are struggling to pay their mortgage.

While it's still early in the process, widespread assistance still remains elusive.

While this settlement represents positive steps toward lender accountability, it fails to provide enough assistance to those affected homeowners. At the same time it provides safe haven for the fraudulent bank practices which led to this national economic crisis. Homeowners should not expect that the settlement will fully resolve their problems.

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