National Mortgage Servicing Settlement – An Overview

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Who is Involved?

- 49 attorneys general (not Oklahoma)
- 43 state banking commissioners, including Va.
- U.S. DOJ, FTC, Treasury, and HUD.
- Five largest mortgage servicers in U.S.:
  - Bank of America, J.P. Morgan Chase, Wells Fargo, Citigroup, and Ally Financial
  - ≈ 59% of U.S. market of residential mortgage servicing
What is Settled?

- State and Federal, civil and administrative claims regarding:
  - Residential mortgage loan servicing
  - Foreclosure services, and
  - Mortgage loan origination (i.e. lending) services.
What is NOT Settled?

- Criminal claims
- Securitization claims
- Claims against MERS
- Any third parties’ claims
  - e.g., individual borrowers
$409.9 million in total benefits includes:

- $294.3 million in “menu” of benefits;
- $31.3 million in cash to foreclosed borrowers; and
- $84.3 million in interest savings from refinancing underwater homes (borrower owes more than current value of home).
$294.3 Million “Menu”

- Loan modifications;
  - Includes principal reduction
- Short sale/deed in lieu approvals;
- Deficiency waivers;
- Transitional funds (cash for keys).
$31.3 Million to Foreclosed Borrowers

- All foreclosed borrowers of the 5 banks.
- Between Jan. 1, 2008 and Dec. 31, 2011:
  - Approximately 15,000 homeowners;
  - Approximately $2,000 per borrower.
- No requirement that legal wrongdoing exists for a foreclosed borrower to receive payout.
- Borrowers must submit claim form for payout.
For “underwater” borrowers;
   ◦ Borrowers that owe more than home is worth.
Interest rate of existing loan is over 5.25%.
Borrower must be current on payments.
Payments to Virginia

- OAG will receive $69.6 million.
  - Deposited in “Revolving Fund.”

- State Corporation Commission and its Bureau of Financial Institutions will receive $1 million.
What can Virginia do with its state payment?

- No specific requirements or limitations.
- Preference that money be used for foreclosure prevention or counseling programs, or to enhance consumer protection efforts to prevent and prosecute financial fraud.
- Many AGs are spending this money themselves.
Virginia Foreclosure Trends

# of foreclosures slowed over the past year:
   ◦ Stabilization in the economy
   ◦ Some settling servicers held back on foreclosures while waiting for completion of national settlement

In October 2011, ~0.29% of Va. homes with mortgages foreclosed upon.

Contrast with October 2010: ~0.41%.

Source: VHDA/RealtyTrac/Census Bureau/Mortgage Bankers Association
Virginia Foreclosure Trends

- Delinquencies (30–day and 60–day) slightly declined since peak in 3Q 2009.
  - 2.8% of all mortgages 30 days delinquent in 3Q 2011 down from 3.0% in 3Q 2009.
  - 1.2% of all mortgages 60 days delinquent in 3Q 2011 versus 1.4% in 3Q 2009.
Virginia Foreclosure Trends by Region

Trustee Sales and Lender Repossessions

- Northern Tier (Inner) (Alexandria/Arlington/Fairfax/Loudoun/Prince William County/Manassas)
- Northern Tier (Outer) (Winchester/Fauquier County/Caroline County/Fredericksburg/Parts of Northern Neck)
- Hampton Roads/Ches. Bay (includes Eastern Shore and Parts of Northern Neck)
- Greater Richmond
- Charlottesville/Cent. Valley

Source: VHDA/RealtyTrac/Census Bureau
Inventories of Lender–Owned Homes

- Jan. 2009: 21,000 lender–owned homes
  - About 80% (~17,000) of the lender–owned homes located in Northern Virginia, including Fredericksburg, Caroline, and parts of Northern Neck.

- Oct. 2011: 15,000 lender–owned homes
  - Just over half (7,500+) located in Northern Virginia.

Source: VHDA/RealtyTrac
Non-Monetary: Servicing Standards

- Servicers agreed to new practices and procedures.

- Provide fair, transparent, and timely process for servicer decisions on requests for loan modifications, short sales, and/or deeds in lieu of foreclosure.
Servicing Standards: The Highlights

- **Prohibition on Robo-Signing**: Affidavits based on personal knowledge and signed in presence of notary.

- **Required Pre-Foreclosure Notice to Borrower**:
  - Account summary;
  - Description of facts supporting lenders’ right to foreclose;
  - Summary of loss mitigation options offered; and
  - Notice of right to request copy of note with endorsements and name of investor holding the loan.
Servicing Standards: The Highlights

- **Restrictions on Dual Tracking**: Can’t refer borrower to foreclosure or move on foreclosure until a completed loan modification application is acted upon.

- **Single Point of Contact Required**: Servicers required to provide single point of contact for borrowers who reach out to them due to difficulties in making monthly payments.
Servicing Standards: The Highlights

- Development of Loan Portals: Banks required to develop Internet loan portals so borrowers can check status of loan modification applications online at no cost.

- Timeline: Review and act upon completed loan modification applications within 30 days of receipt.
QUESTIONS?

Visit the national foreclosure settlement web site: www.NationalMortgageSettlement.com

Accessible at Virginia Attorney General’s web site: ag.virginia.gov