# New Proposal Floated in Servicer/AG Settlement Talks

By: Jann Swanson | Tue, Oct 18 2011, 11:31 AM

A new plan is on the table in the seemingly endless parade of negotiations aimed at ending the foreclosure crisis and resolving the legal impasses over alleged foreclosure abuses by the big banks. The latest proposal, detailed in today's *Wall Street Journal,* was presented in a meeting last week between the banks and government negotiators.

According to *The Journal* the **new plan** is designed to win the support of California's Attorney General Kamala D. Harris who, as was reported here, recently announced she would not be a part of the proposed settlement between five major banks and the 50 state attorneys general over processes used by the large banks' servicing arms in pursuing foreclosures. When Harris withdrew from the negations she said that the settlement was inadequate for California homeowners. "It became clear to me," she said, "that California was being asked for a broader release of claims than we can accept and to excuse conduct that has not been adequately investigated. In return for this broad release of claims, the relief contemplated would allow too few California homeowners to stay in their homes."

If Harris's statement can be taken at face value, it seems that the current proposal will do little to drag her back on board. The **plan would make refinancing available to** borrowers where the home is worth less than the mortgage, the borrower is current on payments, and the mortgage is owned by the bank. *The Journal* estimates that around 20 percent of all U.S. mortgages are owned by U.S.-chartered commercial banks with the remainder held by investors in mortgage-backed securities. In return the banks are reported to want an even broader release from legal claims than they were seeking before the refinancing proposal hit the table.

Lack of equity has prevented many homeowners from refinancing to take advantage of the current record-low interest rates. CoreLogic has estimated that around eight million homeowners who are "under water" have above market rates but refinancing through traditional mortgages is not available to most. Some government programs such as HARP have been aimed at helping these borrowers but have been limited to mortgages held or guaranteed by the GSEs or FHA. California has an estimated 2.06 million homes that are underwater and insiders have said that it would be difficult to reach a settlement without that involvement of the state.

*The Journal* said Housing and Urban Development Secretary **Shaun Donovan** joined two days of discussions last week, and his involvement initially led banks to believe that final decisions could be reached with state and federal officials (but) "several bank executives grew frustrated with what they saw as last-minute efforts to change technical but important details that they believed had already been settled."

Friday's discussions became **very heated** at times according to people close to the negotiations the article said. Government negotiators "have no idea how frustrated the banks are," said one. An administration official conceded that the discussions have grown more "intense" as banks and the government attempt to narrow remaining differences, but characterized banks' concerns as part of the normal course of finalizing a difficult negotiation.

The settlement discussions are expected to result in a settlement of between $20 and $25 million and involve the five largest mortgage servicers, all of which are owned by major banks; Ally Financial, Bank of America, Citigroup, J.P. Morgan Chase, and Wells Fargo. The U.S. Justice Department has also been involved in the talks.

A spokesman for Harris said they had not seen the new proposal; however Harris isn't the only AG to be unhappy with the direction of the discussions before this proposal. **Delaware** Attorney General Beau Biden said on MSNBC this morning that he was going wherever the information led him in his investigations of lenders and the state was pursuing alternatives including a new mandatory face-to-face arbitration between borrowers and servicers. New York AG Eric T. Schneiderman is also known to be conducting of the major servicers independent of settlement talks.

*The Journal* article, written by Ruth Simon, Nick Timiraos, and Dan Fitzpatrick, said that the refinance program would be particularly costly for banks because they would be forced to give up expected interest income on loans for which borrowers are current on their loan payments and, given their payment histories, unlikely to default. Banks can't reduce rates on loans they don't own because the result would be a net loss to the investor.

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