

Guest Opinion: National Mortgage Settlement Act is gamed by banks, states

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November 5, 2012



The National Mortgage Settlement Act created a \$25 billion settlement to be paid by five national lenders.

The purpose of the NMS was to act as a fund to reimburse affected homeowners and rectify serious mortgage abuses by these lenders including, “robo-signed” (falsified) affidavits, deceptive lending and litigation practices, and deceptive practices in misplacing homeowner documents.

The NMS was touted by as a victory for Florida homeowners and our real estate economy. Unfortunately, that has not happened. Instead, these lenders and the state governments are gaming the system to deny affected homeowners the promised relief.

The facts are:

- Half of the NMS settlement monies have been diverted by cash hungry states to other projects. Nationwide, \$989 million so far has been diverted to other projects.
- Florida lawmakers are debating if they want to divert \$300 million that was earmarked for homeowners to other programs.
- There is no evidence that the purported settlement supposedly given to homeowners can be verified. According to Joseph A Smith Jr., head of the Office of Mortgage Settlement Oversight, \$10.56 billion of supposed settlement payments are not verified.

Below is an example of phantom relief for the homeowners and how these lenders are gaming the system.

At closing, a national lender places a \$100,000 fraudulent second mortgage on a home that now has negative equity. The home goes into foreclosure. The national lender has an unsecured note, so it releases the homeowner from the \$100,000 mortgage, forgives the uncollectible debt and claims a credit \$100,000 as “relief” to the homeowner.

However, keep in mind that the \$100,000 second mortgage was a fraudulent or uncollectible mortgage and the homeowner receives no reimbursement but the national lender takes a \$100,000 credit toward the penalty it was supposed to pay out.

The Palm Beach Post reported "...nearly 500 Florida homeowners have seen an average of \$65,896 in second mortgage debt disappear as a result of the \$25 billion National Mortgage Settlement..."

Unless these second mortgages were collectible, the national lenders just received more than \$32 million in credit for canceling uncollectible notes.

Nationwide estimates are that 750,000 homeowners were affected by deceptive practices of national lender; however, NMS has earmarked only \$1.5 billion of the \$25 billion as compensation for these homeowners. Is \$2,000 reasonable compensation for losing your home to fraudulent lending practices?

The Orlando Sentinel, reported: "About 1,000 Floridian have filed complaints in recent months against the top lenders who pledged earlier this year to work with 'underwater' homeowners..." Each of the national lenders indicates that they have created procedures and indicate they will determine if and how relief is given.

Joining the 1,000 other Floridians, my firm filed a complaint with the Florida Attorney General asserting that national lenders have failed to honor their obligations.

Pressure needs to be applied by responsible elected officials so that Florida homeowners can get the relief to which they are entitled.

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