



MARYLAND ATTORNEY GENERAL'S OFFICE

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MORTGAGE SERVICING SETTLEMENT

ALLOCATION OF SETTLEMENT FUNDS
FOR HOUSING COUNSELORS,
LEGAL SERVICES AND
OTHER HOUSING INITIATIVES

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ALLOCATION OF MORTGAGE SERVICING SETTLEMENT FUNDS

This Office along with 48 other Attorneys General, the United States Department of Justice, the United States Department of Housing and Urban Development and state banking regulators, entered into Consent Orders with the five (5) largest bank servicers of mortgages. The Consent Orders represented the largest joint federal-state settlement in history. They were entered by the United States District Court for the District of Columbia on April 4, 2012.

The Consent Orders provide 42 pages of servicing standards that fundamentally change many of the servicers' practices. The Consent Orders also provide approximately \$25 billion in monetary relief. That monetary relief includes restitution to certain consumers who lost their homes to foreclosure, relief for consumers facing foreclosure, and a refinance program for consumers who are current in their payments but whose homes are worth less than their mortgages. The projected benefit to Marylanders from the settlement is almost \$900 million. In addition to the direct benefits to Maryland residents, the Consent Orders require that the servicers pay \$59,697,470.00, of which 10% or \$5,969,747.00 is a civil penalty that goes to the General Fund. The balance of \$53,727,723.00 is required to be used "for housing and foreclosure-relief purposes and for related investigations and enforcement activities. These purposes and activities may include, but are not limited to, the provision of housing counseling, legal assistance, criminal or civil investigations of fraud related to housing and the securitization of mortgage loans, enforcement activities, foreclosure prevention, foreclosure remediation, restitution, and programs to address community blight or to fund other programs reasonably targeted to benefit persons harmed by mortgage fraud."

I appointed a Mortgage Settlement Funds Workgroup to make recommendations for the use of these funds. The Workgroup was composed of representatives from the Senate, the House of Delegates, the Governor's Office, the Maryland Department of Housing and Community Development, the Department of Labor, Licensing and Regulation, Prince George's County Department of Housing & Community Development, Baltimore City Department of Housing & Community Development and the City's Law Department, the Abell Foundation and the Office of the Attorney General. A copy of the Workgroup's final recommendations is attached.

I would like to thank all of the Workgroup members for their assistance in determining how to allocate the funds from the Consent Orders. The Workgroup obtained input from a variety of sources and created a well-designed plan for the funds. I am adopting the Workgroup recommendations, with one change -- for the reasons set forth below, all of

the money within the “housing counselors and legal assistance” category should be allocated to organizations that provide those services. In addition, I believe that the allocations to Baltimore City and Prince George’s County should be made through a process that requires a detailed plan and accountability, as described below.

Housing Counselors and Legal Assistance

The Workgroup recognized the crucial role that housing counselors and legal advocates play in helping Maryland citizens. I wholeheartedly agree with the recommended support for these organizations. In addition, because of the importance of the work these groups perform, I believe that the allocations proposed for pre-file mediation and outreach should be added to funding that will be provided for housing counselors and legal assistance organizations through a competitive Request For Proposal (“RFP”) process.

I recognize the importance of both the pre-file mediation program and outreach activities, but do not believe that the Consent Orders should be the funding source for those activities. The General Assembly created the pre-file mediation program during the 2012 legislative session in the hope that earlier mediation will produce a better outcome. That is a laudable goal and an important program. However, the funds from the Consent Orders should not be diverted from housing counseling and legal assistance organizations to fund an existing government program, even one in its infancy.

Similarly, I think that it is better to fund housing counseling and legal assistance organizations than to pay for outreach efforts. The Office of the Attorney General, the Department of Labor Licensing and Regulation, and the Department of Housing and Community Development are all committed to engaging in outreach activities. Many of those activities involve minimal cost. I believe that we can better serve Maryland residents by continuing those low-cost governmental outreach activities and devoting the settlement funds to housing counseling and legal service organizations that can directly help our residents.

Funds for the local jurisdictions hardest hit by the foreclosure crisis

Baltimore City and Prince George’s County have suffered more from the foreclosure crisis than the other local jurisdictions in the State of Maryland. The local governments of both of those jurisdictions are in a strong position to help remedy the harms suffered by communities ravaged by foreclosures. In recognition of the needs that Baltimore City and Prince George’s County have and the unique powers of the local governments that

enable them to help meet those needs, the Workgroup recommended that \$10 million be allocated to Baltimore City and that \$10 million be allocated to Prince George's County.

I agree with the Workgroup's analysis and recommendation and believe that these funds will help the local governments stabilize injured neighborhoods. However, I also recognize that we have a duty to ensure that the funds achieve their intended purpose. Accordingly, allocations will carry conditions including:

1. Before receipt of any funds, each of the jurisdictions shall prepare detailed plans for use of the funds, including
 - a. the specific neighborhoods in which the funds will be used,
 - b. the specific purposes for which the money will be used (e.g., condemnation and demolition of vacant properties, purchase and renovation of vacant properties, or assistance provided to purchasers of vacant properties),
 - c. a projected timeline for the project, and
 - d. a projection of the outcomes of the project, including the number of homes involved.

2. The jurisdictions shall be required to use the funds only for direct costs (i.e., cost of acquisition, cost of demolition or renovation, or cost of the assistance provided to a purchaser), not for overhead costs. Although implementing the programs will require the time of local government personnel other than local government work crews, those costs should be borne by the local government. I do not believe that the local governments should be required to match or obtain matching funds in order to use the money allocated to them, but they should be willing to bear the ordinary governmental costs that will be necessary to implement the programs.

3. Money shall be disbursed in accordance with the timeline provided by the local jurisdiction and subsequent disbursements shall be dependent upon reporting of the results from the prior disbursements.

Allocation

Adopting the Workgroup's recommendation with the one modification discussed above, produces the following allocation:

\$8,600,000 for housing counselors allocated through an RFP process

\$6,227,863 for legal assistance organizations allocated through an RFP process

\$10,000,000 for Baltimore City local government housing program

\$10,000,000 for Prince George's County local government housing program

\$2,761,860 for new temporary enforcement positions in the OAG

\$2,138,000 for financial fraud prevention positions at DLLR

\$14,000,000 for a neighborhood stabilization fund allocated through an RFP process

Recommendations for the Attorney General's Mortgage Settlement Funds

The bank servicers will pay \$59,697,470.00, of which 10% or \$5,969,747.00 is a civil penalty that will go to the General Fund. The balance of \$53,727,723.00 is required to be used “for housing and foreclosure-relief purposes and for related investigations and enforcement activities. These purposes and activities may include, but are not limited to, the provision of housing counseling, legal assistance, criminal or civil investigations of fraud related to housing and the securitization of mortgage loans, enforcement activities, foreclosure prevention, foreclosure remediation, restitution, and programs to address community blight or to fund other programs reasonably targeted to benefit persons harmed by mortgage fraud.”

The Attorney General appointed a Mortgage Settlement Funds Workgroup to make recommendations for the use of these funds. The Workgroup is composed of representatives from the Senate, the House of Delegates, the Governor's Office, the Maryland Department of Housing and Community Development, the Department of Labor, Licensing and Regulation, Prince George's County Department of Housing & Community Development, Baltimore City Department of Housing & Community Development and the City's Law Department, the Abell Foundation and the Office of the Attorney General. The Workgroup met in person four times – twice in Baltimore, once in Prince George's County and once in Annapolis – and discussed its recommendations over the telephone.

The Workgroup sought input from government representatives as well as from not-for-profit organizations. After an introductory meeting with an overview of the National Mortgage Servicer Settlement and of trends and problems arising from foreclosures in Maryland, the Workgroup heard from representatives of housing counseling and legal assistance organizations. These representatives talked about the services that they were providing to homeowners and tenants of landlords who were in foreclosure, the unmet needs of homeowners and tenants, and the potential use of additional funding for housing counseling and legal assistance. The Workgroup then heard from local governments and not-for-profit groups. Representatives described their organizations' past efforts and presented various creative ideas for addressing the harm that communities have suffered as a result of the State and national foreclosure crisis.

After hearing about the current efforts to help Marylanders through housing counseling, legal assistance, and neighborhood stabilization efforts, the Attorney General's Workgroup met to evaluate the presentations and the written proposals that had been made to the Workgroup. The Workgroup also discussed a potential breakdown of the use of the funds. After preparing a preliminary allocation of funds, the members of the Workgroup examined each of the categories of potential funding in an effort to maximize the assistance that the citizens of Maryland would receive. Through discussion, there was general agreement on the various funding areas. The one area where there was not a consensus was the apportionment of funding between the local governments for neighborhood stabilization, and the neighborhood stabilization Request For Proposal (“RFP”) process. On the one hand, there was a proposal that all funds be allocated through a competitive RFP process. On the other, representatives of Baltimore City and Prince George's County preferred larger allocations to their local governments, apart from any RFP process. The general view of members of the group was that Baltimore City and Prince George's County were in a unique position to use the funds to help hard-hit communities within their

jurisdictions, but that the allocation should also provide sufficient funds to permit a variety of creative proposals, the best of which would be selected through a competitive RFP process.

All of the members of the Workgroup recognized the serious problems that the foreclosure crisis has created and that the needs exceed the available funds. However, the Workgroup hopes that the funds will make a meaningful difference to borrowers, tenants and communities in Maryland.

Consistent with the requirements of the mortgage servicing settlement entered into between the Attorney General and the nation's five largest mortgage servicers, the Workgroup recommends the following allocation of funds:

- Proposal: Funds for housing counselors and legal assistance

Recommendation:

\$8,000,000 for housing counselors

\$5,707,863 for legal assistance

\$520,000 for pre-file mediation

\$600,000 for outreach

Discussion: The Workgroup recognized a serious need to provide additional funds for housing counseling and legal assistance organizations that can provide help to homeowners and tenants. Because the Maryland Department of Housing and Community Development ("DHCD") has an infrastructure in place for issuing RFPs and overseeing contracts with housing counselors and legal assistance organizations, the Workgroup believes that DHCD and the Office of the Attorney General ("OAG") should work together to identify criteria for an RFP and handle the selection process. DHCD has experience soliciting proposals from housing counseling agencies and has experience monitoring and auditing recipients. The Workgroup believed that it makes sense for DHCD to monitor performance of fund recipients and perform appropriate audits for monies that are distributed to housing counseling and legal assistance agencies from the Consent Order. The funds for housing counseling and legal assistance should be provided on a multi-year basis, so that the organizations are not forced to hire and train people who will need to be terminated less than a year later due to lack of funding.

The Workgroup recommends that the RFP processes for housing counseling and legal assistance organizations be separate. The functions served by housing counseling and legal assistance organizations are not identical and a single RFP process might disadvantage one of those important functions. However, the Workgroup recognized that there is a benefit to housing counseling and legal assistance organizations working together, so funds also can be awarded to organizations that seek collaboration between housing counselors and legal assistance. The Workgroup believes that the allocation for

legal assistance should specify that, in addition to assisting homeowners, money will be dedicated to providing legal assistance to tenants whose landlords are in foreclosure.

In addition to the amount allocated to housing counseling agencies (which could include helping homeowners in mediation), the Workgroup recognized the benefits of early mediation. Therefore, the Workgroup recommends providing \$520,000 in start-up funds for mediation now available to homeowners before they are in foreclosure under legislation recently passed by the Maryland General Assembly. The members of the Workgroup recognized that early mediation was more likely to meet with success and wanted to help get this new program off the ground.

The Workgroup also recommends providing funds for expanded outreach efforts, including workshops, advertising, printing and mailing materials, and support of the HOPE Hotline. The Workgroup recommends allocating \$600,000 for these enhanced outreach efforts. These outreach efforts will be in addition to the efforts that the OAG, the Department of Labor, Licensing and Regulation (“DLLR”) and DHCD are currently making to reach out to borrowers.

- Proposal: Funds for the local jurisdictions hardest hit by the foreclosure crisis

Recommendation:

\$10,000,000 for Baltimore City
\$10,000,000 for Prince George’s County

Discussion: The Workgroup believed that the local governments of the two jurisdictions that have been the hardest hit by the foreclosure crisis, Baltimore City and Prince George’s County, were uniquely positioned to use funds for neighborhood stabilization. Both Baltimore City and Prince George’s County have identified uses for the money, but would have discretion in identifying the specific areas within their jurisdictions for which they would use the funds. Baltimore City has identified the benefits from demolishing blocks of uninhabitable houses, especially where there are blocks of vacant houses requiring no retaining walls or relocation of occupants. It has also identified the benefits of its “Booster Program” to assist new homeowners with the purchase of vacant properties. Prince George’s County proposes to use the funds for neighborhood stabilization in high impact areas by purchasing and rehabilitating homes in five zip codes that have been identified as high or severe foreclosure “hot spots.”

- Proposal: Enforcement support in the Office of the Attorney General

Recommendation: \$2,761,860.

Discussion: The Workgroup supported strengthening civil enforcement staffing to pursue claims involving securitization and consumer protection issues. The OAG had proposed two attorneys and an investigator to pursue securities claims, one attorney to pursue criminal claims, and one attorney to pursue consumer protection claims, at a cost just over \$1.8M. That proposal was a barebones proposal and there was discussion about the need for additional resources to pursue civil claims. There was also discussion about adding a criminal prosecutor to pursue cases related to mortgages and/or foreclosures. The original proposal was bolstered, consistent with the suggestions of members of the Workgroup, to add another attorney, an accountant, and an investigator. The Workgroup's recommended funding will provide two attorneys, an accountant, and an investigator to pursue securitization claims, two attorneys and an investigator to pursue consumer protection claims, and a criminal attorney to pursue criminal charges. All of these positions would be contractual positions that would cease to exist after three years of funding. The Workgroup believes that the additional resources will help the OAG obtain redress for illegal conduct in Maryland.

- Proposal: Financial fraud prevention at DLLR

Recommendation: \$2,138,000

Discussion: The Workgroup recommends funding DLLR's Division of Financial Regulation ("DFR") in order to increase its enforcement activities, after moving a requested criminal prosecutor position from DFR's payroll to the OAG's and reducing the funding from four fiscal years to three. DFR requested three investigators and a paralegal who will investigate loan modification scams and a variety of mortgage-related regulatory improprieties and/or violations of law; one attorney to bring administrative enforcement actions; a consumer services person to handle complaints; and an assistant commissioner to oversee and direct mortgage and servicing examinations. A significant portion of the funding will enable DFR to maintain a dedicated mortgage fraud enforcement effort currently funded by a federal grant that expires in the coming months. The Workgroup believes that the personnel will help DFR to sustain and enhance its effort to combat problems in the mortgage industry and loan modification scams.

- Proposal: Neighborhood stabilization fund

Recommendation: \$14,000,000

Discussion: The Workgroup recognized a serious need for neighborhood stabilization funding for communities that have been hit by the foreclosure crisis. The Workgroup recommends allocating monies to fund various stabilization and revitalization projects through an RFP process for which DHCD and the OAG would develop criteria and evaluate proposals. Recognizing that the need far exceeds the funds that can be awarded, the Workgroup hopes that the neighborhood stabilization RFP process will provide an opportunity for implementation of creative proposals that can serve as models for future programs and can attract additional funding to this area. One criterion that the Workgroup believed should be considered in the RFP process is whether the proposals will help neighborhoods that have suffered from high rates of foreclosures. The group heard about a number of very promising models. The money allocated through this RFP process should be open to non-governmental entities, as well as local governments. The RFP process will seek proposals for neighborhood stabilization and revitalization. DHCD will use its experience in monitoring and auditing grant recipients to ensure that the money is used for its intended purpose.

The Workgroup believes that the recommended allocation of funds should help homeowners and tenants by increasing the capacity of housing counseling and legal assistance organizations, providing start-up funds for the pre-file mediation program, and increasing consumer awareness of the help available to them through increased outreach. The Workgroup believes that the increased resources for enforcement provided to the OAG and DLLR will help attack illegal practices with respect to securitization and other housing and mortgage related improprieties. Finally, the Workgroup believes that the money allocated to Baltimore City, Prince George's County and the neighborhood stabilization RFP process will help to stabilize neighborhoods ravaged by the foreclosure crisis and help to decrease community blight. The needs created by the foreclosure crisis far exceed the resources available under the Consent Order with the mortgage servicers. However, the Workgroup hopes that the allocation of funds under the Consent Order will provide significant benefits to the citizens of the State of Maryland.