



IDAHO LEGAL AID SERVICES FAIR LENDING NEWSLETTER

SUMMER 2013

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UPDATE ON THE NATIONAL MORTGAGE SETTLEMENT

In February of 2012, 49 state attorneys general and the federal government announced a joint state-federal settlement with the country's five largest servicers: Ally/GMAC, Bank of America, Citi, JPMorgan Chase, and Wells Fargo. The agreement settled state and federal investigations into "robo-signing" a practice wherein servicers were found to have signed foreclosure documents outside the presence of a notary public and/or without actual knowledge of the veracity of facts alleged in the documents they signed.

Nearly one year after the settlement was reached, 621,712 borrowers have received some type of consumer relief with total relief amounting to \$50.63 billion. Of those 621,712 borrowers, over 380,000 have received relief specifically to help them retain their homes, including: loan modifications, principal forgiveness, and second lien extinguishments. These statistics come from new reports issued by the Monitor of the National Mortgage Settlement, Joseph A. Smith, Jr.

According to the Monitor's reports, more than \$22.48 billion of the overall completed consumer relief has come in the form of debt forgiveness. Because of the settlement, principal reduction has become more common and helps borrowers stay in their homes, lowering monthly payments on

over 266,000 loans and actually reducing struggling homeowners' loan balances by more than \$81,000 on average. "As we reach the one year anniversary, the latest report marks a major milestone in our efforts to assist struggling homeowners," said HUD Secretary Shaun Donovan. "We have already surpassed our initial expectations and the settlement is testament to the fact that large scale principal reduction can be used an important tool in our efforts to prevent foreclosures.

In Idaho, cumulative consumer relief has topped \$173 million. The five servicers have completed 496 refinances for Idaho homeowners with average rate reduction of 2.58%. In addition 244 homeowners received a modification with some form of principal forgiveness; 1096 homeowners received deficiency forgiveness through a short sale or deed in lieu; 645 homeowners had a second lien extinguished; and 122 homeowners received a forbearance due to unemployment.

You can read the Monitor's full report and view the interactive state-by-state map by visiting www.mortgageoversight.com.

However, even though much progress has been made, there are concerns that servicing violations continue to occur and there are calls for greater oversight from the Mortgage Settlement Monitor. On March 27, 2013, a coalition of 109 civic groups sent a letter to the Monitor highlighting their concerns about lack of real change on the ground in the hardest hit communities and asking for more oversight.

The letter alleges that many homeowners are still finding it extremely difficult to get affordable mortgage modifications with principal reduction. In particular, the coalition points out that communities of color and low-income communities have been slow to receive relief. The letter requests that the Monitor collect and make public race, ethnic, and geographic data to ensure the servicers are

meeting their full obligations under the settlement agreement.

“Communities of color were disproportionately targeted by abusive lenders, and they have been disproportionately hurt by the foreclosure crisis” said Lisa Donner, Executive Director of Americans for Financial Reform. “The cycle of discriminatory lending must be broken,” said Mark Ladov, counsel at the Brennan Center for Justice. “We need full transparency and accountability to ensure all borrowers, including communities of color, are receiving the help they need to stay in their homes.”

“The national mortgage settlement is supposed to bring relief to homeowners who were hardest hit by Wall Street’s malfeasance,” said Brian Kettenring of the Campaign for a Fair Settlement. “Unfortunately, the reports to date fail to provide any insight into whether the settlement is benefitting communities of color. Every week we see fresh evidence that the banks and servicers can’t be taken at their word: We need data and hard evidence that they’re doing what they’re required to do.”

THE FUTURE OF THE MAKING HOME AFFORDABLE PROGRAM

The Home Affordable Modification Program, or HAMP, has helped more than 1.3 million homeowners at risk of foreclosure and has reduced mortgage payments significantly for these households, a median savings of \$546 per month.

A coalition of 36 state and national organizations is asking the U.S. Treasury Department to reconsider ending the program in a letter sent to Jacob J. Lew, U.S. Treasury Secretary. The letter states, "Research has shown that foreclosure and delinquency rates have disproportionately impacted African-American and Latino families, and median household wealth has dramatically declined. . . High foreclosure rates in communities of color have also impacted those homeowners neighboring foreclosed properties, and estimates show that these properties stand to lose \$1 trillion in home equity as a result."

Launched in 2009, HAMP initially sought to lower monthly mortgage payments to an affordable and sustainable level through a uniform loan

modification process. HAMP funding was a part of the \$29.9 billion authorized for the Making Home Affordable Program. Later in 2012, program options were expanded to focus on principal reduction modifications, expand relief for unemployed homeowners and ease other alternatives to foreclosures such as short sales. For example, HAMP's unemployment program offers a minimum of 12 months of temporary forbearance to allow these homeowners time to focus on securing new employment while still owning their homes. More than 30,500 homeowners have been assisted through this forbearance program.

The most recent HAMP program performance report shows that the program is working well and has been an effective tool to assist homeowners in avoiding foreclosure. Nationwide, the average non-HAMP mortgage modification reduced monthly payments by \$389; while the average HAMP modification reduced the same monthly payments by \$558. Similarly, non-HAMP servicers reduced interest rates in 73 percent of modifications made in the fourth quarter of 2012. Participating HAMP servicers reduced interest rates for 81 percent of borrows during this same period.

Coalition leaders are particularly concerned that ending the HAMP program at the end of this year will mean many of the hardest hit neighborhoods will not have had adequate time to take advantage of this program and significantly recover from the foreclosure crisis. In particular, high concentrations of foreclosures in neighborhoods of color has created a disproportionate burden on these communities throughout the foreclosure crisis. Coalition leaders agree: "Effective housing policies must recognize that neighborhoods with higher foreclosure rates and deeper foreclosure-related impacts will take more time to recover."

Fortunately, on May 30, 2013, Jacob Lew, Treasury Secretary, and Shaun Donovan, secretary of the Department of Housing and Urban Development, announced that HAMP, which was due to lapse at the end of 2013, has been extended through 2015. Mr. Donovan said of the program: "Families across the country have used its tools to reduce their principal, modify their mortgages, fight foreclosure and stay in their homes — helping further stimulate our housing market recovery.

And with this extension, we ensure that the program keeps supporting communities for years to come.”

HUD LAUNCHES FIRST FAIR HOUSING MOBILE APPLICATION

New app will help the public, housing industry learn about their housing rights and responsibilities

The U.S. Department of Housing and Urban Development (HUD) unveiled the first housing discrimination mobile application (app) for iPhone and iPad. Developed by HUD’s Office of Fair Housing and Equal Opportunity (FHEO) and Hewlett Packard (HP), the app uses the latest technology to provide the public with a quick and easy way to learn about their housing rights and to file housing discrimination complaints, and inform the housing industry about its responsibilities under the Fair Housing Act.

The app will also be an important tool to assist fair housing groups and other civil rights advocacy organizations in their efforts to help individuals pursue their housing rights and industry to educate their members on their responsibilities. Several groups indicated their intent to promote the app with their members and in communities where they work, including MomsRising, Illinois Department of Human Rights, Access Living, League of United Latin American Citizens, Asian Real Estate Association of America, National Association of Hispanic Real Estate Professionals, National Association of Real Estate Brokers, and the National Center for Lesbian Rights.

“Having this first fair housing mobile application equips people everywhere with the information they need to combat housing discrimination,” said John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. “We are maximizing the latest technology to make the process for filing fair housing complaints faster and easier and arming our fair housing partners with the information they need to understand their fair housing rights and responsibilities.”

HUD’s new fair housing app was unveiled during the 3rd Annual MobileGov Summit in Washington, DC, a conference which brings government and industry IT leaders together to discuss

the latest trends and best practices for creating the next generation mobile government workforce.

“HUD needed an efficient and reliable solution to quickly extend existing capabilities to mobile computing devices,” said Marilyn Crouther, senior vice president and general manager, U.S. Public Sector, HP Enterprise Services. “The new HP application achieves operational goals of HUD - from concept to deployment - while more effectively addressing discrimination complaints. The mobile app simplifies and increases access to government services for people.”

In addition to facilitating real-time delivery of housing discrimination complaints to HUD, the app can be used by individuals researching their housing rights after a natural disaster, when power outages make the iPhone/iPad one of the few ways to access the Internet. The app also provides information about the fair housing complaint process, and allows the public to access HUD’s toll-free discrimination hotline and link to HUD’s fair housing website: www.hud.gov/fairhousing

In conjunction with the fair housing mobile application, FHEO has released HTML 5 adaptive mobile pages, which are in English and Spanish and allow web content to display properly regardless of the brand of smartphone or tablet being used. In addition, the adaptive mobile pages allow individuals to complete and submit the fair housing complaint form in Spanish. FHEO also plans to design a “Quick Response code” ad campaign, directing mobile users to the new adaptive pages.

HUD ANNOUNCES AGREEMENT WITH BANK OF AMERICA TO SETTLE LGBT DISCRIMINATION CLAIM

BOA agrees to pay \$7,500, correct practices for alleged discrimination against lesbian couple

To combat housing and lending discrimination based on sexual orientation or gender identity, the U.S. Department of Housing and Urban Development published a new rule in 2012: “Equal Access to Housing in HUD Programs – Regardless of Sexual Orientation or Gender Identity.” This new rule became effective March 5, 2012 and, in particular, prohibits lenders from using sexual orientation or gender identity as a basis to determine a borrower’s eligibility for FHA-insured mortgage

financing. The rule, which becomes effective on March 5, 2012, defines "gender identity" to mean "actual or perceived gender-related characteristics" and "sexual orientation" to mean "homosexuality, heterosexuality, or bisexuality."

In early 2013, HUD issued a press release that gave the public its first glimpse of HUD's enforcement of this new rule. HUD claimed Bank of American (BOA) denied a loan to a Florida couple seeking to obtain an FHA-insured mortgage because of their sexual orientation and marital status. Because one partner was not employed, the applicant enlisted her partner's mother as a co-applicant on the loan. The couple worked with BOA for several weeks to provide all of the necessary loan application documents and the couple was assured by BOA that they were likely to receive a mortgage. One business day prior to closing, BOA denied the mortgage because it did not consider the loan applicant and the co-applicant directly related because the applicant and her partner were not married. As a result of BOA's actions, the couple was not able to close on the loan. Under the terms of the agreement between HUD and BOA, BOA agreed to pay HUD \$7,500 and to notify its residential mortgage loan originators, processors and underwriters of its Settlement Agreement. In addition, BOA agreed to remind its employees that they are prohibited from discriminating against FHA-loan applicants on the basis of sexual orientation, gender identity or marital status. BOA also agreed to update its fair lending training program to include information on HUD's rule. Regarding the settlement, John Trasviña, HUD's Assistant Secretary for Fair Housing and Equal Opportunity, stated, "The HUD Equal Access Rule means just what it says: one's sexual orientation, gender identity or marital status is not a legitimate basis on which to deny a mortgage. Members of the housing industry should take note of this settlement agreement. HUD will enforce its regulations to make sure its programs are truly open to all qualified families."

The Fair Housing Act makes it unlawful to discriminate in residential real estate-related transactions based on race, color, national origin, religion, sex, disability, or familial status. HUD continues to take enforcement actions in other areas of lending discrimination as well. Recently, HUD has reached several settlements in fair lending cases

involving discrimination claims based on maternity leave. In one such case, SunTrust Mortgage had to pay two complainants \$18,000 each after denying loans to a woman in Florida and a woman in Virginia because the women were on maternity leave. In a similar case, Primary Residential Mortgage, Inc. had to pay a woman \$13,000 after denying a mortgage loan because the applicant was pregnant and on maternity leave.

ROLE OF THE CONSUMER FINANCIAL PROTECTION BUREAU IN FAIR LENDING CASES

The Consumer Financial Protection Bureau (CFPB) is responsible for enforcing the Equal Credit Opportunity Act, which prohibits discrimination by creditors based on race, color, religion, national origin, sex, marital status, age, or because a person receives public assistance. The CFPB has created an "Office of Fair Lending" within its agency to ensure that all Americans have fair, equitable, and nondiscriminatory access to credit.

The Office of Fair Lending's Assistant Director released a statement to let "both lenders and consumers know that in our examination and enforcement work, we will combat unlawful, discriminatory practices—including those that have an illegal disparate impact on protected borrowers. We will look not only at mortgage lending, but also at other types of credit including student loans, loans for cars, and credit cards. Access to credit is critical to a successful financial future. At the CFPB, we are committed to fighting unlawful, discriminatory practices and creating a fair marketplace for all consumers."

On its website, the CFPB describes how it is different from other financial regulators: "Other regulators focus on the safety and soundness of the financial institutions first. The CFPB is the first to focus primarily on the American consumer." The CFPB's Office of Fair Lending is engaging in data-driven research and analysis of consumer financial markets and services; enforcement and oversight of federal fair lending laws; and promotion of fair lending compliance and education.

The CFPB also seeks to gather information from consumers to help identify and address widespread unfair lending practices. To that end, the CFPB's website includes educational materials to help education consumers about discriminatory practices, a section for consumers to share a story about a good or bad experience with a financial product, and a section to submit a complaint. For more information, visit www.consumerfinance.gov/fair-lending/.

DISABILITY AND LENDING DISCRIMINATION: OVERVIEW AND EXAMINATION OF RECENT CASES

The Fair Housing act prohibits lenders from discriminating against persons with disabilities. Prohibited practices include: requiring extra income documentation from people with disabilities when they have already demonstrated a steady source of fixed income and inquiring about the nature or severity of a disability. If a consumer files a fair lending complaint with HUD, the complaint is investigated and HUD may find that bringing an enforcement action in the case is warranted. Below are short descriptions of three recent disability discrimination actions taken by HUD or the Department of Justice.

On October 10, 2012, the court entered a consent order in *United States v. Bank of America* (W.D.N.C.). The Department of Justice complaint alleges that Bank of America violated the Fair Housing Act and the Equal Credit Opportunity Act by requiring mortgage applicants with disabilities to provide a letter from a doctor as a condition of credit. Bank of America requested letters that identified the disability or that stated the disability was permanent or that stated that disability payments would continue for three years. The settlement requires Bank of America to pay \$1,000, \$2,500 or \$5,000 to eligible mortgage loan applicants who were asked to provide a letter from their doctor to document the income they received from Social Security Disability Insurance (SSDI). The HUD complainants will receive a total of \$125,000 in damages.

On January 23, 2013, HUD announced that U.S. Bank National Association must pay \$12,000 to a loan applicant with disabilities

under a Conciliation Agreement settling allegations that the bank required him to provide unnecessary documentation to establish he would continue receiving disability income for three years before they would approve his mortgage loan.

A Roseville, Minnesota man filed a complaint with HUD alleging U.S. Bank asked him to provide proof that his disability income, including Social Security Supplemental Security Income (SSI), would continue for three years. The applicant submitted documentation from the Social Security Administration as part of his mortgage application. Additional documentation was not needed because Social Security award letters without expiration dates establish continuity of income for three years.

Under the terms of the Conciliation Agreement, U.S. Bank agreed to pay the man \$12,000, accept SSI award letters as establishing at least three years' income, and refrain from requiring applicants receiving disability income to provide doctors' statements concerning the nature, severity, or duration of a disability.

"Holding persons with disabilities to a different standard because they rely on disability-related income violates the Fair Housing Act," said John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "Reasonable income standards are a necessary part of the underwriting process but HUD will continue to take action when these practices are discriminatory."

Finally, on April 1, 2013, the Department of Justice (DOJ) filed a statement of interest in *Gomez v. Quicken Loans*, a case alleging that Quicken Loans discriminated against borrowers with disabilities by requiring that they provide a letter from a doctor as a condition of their loans. The Statement of Interest by the DOJ addresses defense claims that disparate impact claims are not permitted under the Fair Housing Act and that disparate treatment claims require proof of ill intent.



SURVEY

Please fill out the survey below and return it to us by fax (208) 342-2561, e-mail to lindajohnston@idaholegalaid.org, or mail to Idaho Legal Aid Services, Inc., 310 N. 5th St., Boise, Idaho 83702. The survey can also be found on our website at idaholegalaid.org. Completed surveys will help us determine content of future newsletters and the effectiveness of this newsletter.

*Please check the blank next to the number corresponding to your answer, with 1 indicating the **lowest** value or no and 5 indicating the **highest** value or yes.*

1. The information in this newsletter was useful.
1 2 3 4 5
2. Is fair lending an important topic for Idaho Legal Aid Services to address?
1 2 3 4 5
3. I was aware of Idaho Legal Aid's Fair Lending/Fair Housing Legal Advice Line before this newsletter. 1 2 3 4 5
4. I was aware that Idaho Legal Aid provides free fair lending and fair housing trainings to organizations, consumers and attorneys.
1 2 3 4 5
5. What fair lending topics should we include in our next newsletter?

How to File a Complaint When There is **DISCRIMINATION** in Lending

If there is discriminatory lending under the Fair Housing Act based on race, religion, national origin, color, disability, sex, familial status, gender identity and sexual orientation for federally subsidized loans in Idaho, file a complaint with the Region X Department of Housing and Urban Development Fair Housing and Equal Opportunity Office at:

FHEO HUB Office
909 1st Ave., Ste. 205, OAE
Seattle, WA 98104
(800) 877-0246 or
(206) 220-5170
FAX: (206) 220-5447
TDD: (206) 220-5185

or

www.hud.gov

or

Use the Housing Discrimination Complaint Application—available for free at itunes.apple.com



**FAIR LENDING ONLINE
RESOURCES**

www.consumerfinance.gov/fair-lending/

http://portal.hud.gov/hudportal/HUD?src=/topics/fair_lending

www.ifhcidaho.org/

[www.idaholegalaid.org/
FairHousingPortal/Fair-Lending](http://www.idaholegalaid.org/FairHousingPortal/Fair-Lending)

<http://www.occ.gov/topics/consumer-protection/fair-lending/index-fair-lending.html>



For more information and/or assistance regarding these issues: Consumers as well as housing providers and lenders may contact Idaho Legal Aid Services Fair Housing/Fair Lending Legal Advice line by calling Monday through Friday, 9:00 a.m. to 12:00 p.m., M.S.T., (208) 345-0106 in Boise calling area, or statewide toll-free 1-866-345-0106, or (TTY) 1-800-245-7573. En español llamada gratis estatal, 1-866-954-2591 o 454-2591 en la área local de llamadas en Caldwell

**Or visit our fair housing portal at
[http://www.idaholegalaid.org/
FairHousingPortal](http://www.idaholegalaid.org/FairHousingPortal)**

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