

# STATE HOUSE NEWS SERVICE

MASS. JOINS FORECLOSURE SETTLEMENT WITH BANKS, \$318 MIL IN RELIEF ESTIMATED

By Matt Murphy  
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STATE HOUSE, BOSTON, FEB. 9, 2012....A national settlement with the state's five largest mortgage lenders will bring \$318 million to Massachusetts in relief for homeowners through cash payments, loan modifications and other concessions to resolve what Attorney General Martha Coakley described as "unnecessary and unlawful" foreclosures.

Coakley had been one of the last holdouts to the settlement, along with California and New York, after she pulled back from the negotiations in December to pursue a lawsuit of her own in federal court against Bank of America, Wells Fargo, JP Morgan Chase, Citi and GMAC.

While the settlement resolves claims that the banks failed to follow through on loan modification promises to homeowners and deceived borrowers by signing affidavits and sworn statements through so-called "robo-signing," Coakley said Massachusetts negotiated a carve-out in the settlement that allows the state to continue to pursue litigation over two key issues. Without that arrangement, she said, she would not have signed onto the deal.

"We said at the time we wanted to seek real relief for homeowners as well as real accountability from the banks," Coakley said during a press conference in her office. "With the action we have taken today in signing on to the 50 states and federal agreement with five major banks we believe we've taken meaningful steps to do both of those things."

The attorney general's office will proceed with civil claims against the same five banks alleging they ignored the Supreme Judicial Court ruling in *Commonwealth v. Ibanez* that upheld Massachusetts law requiring that only the present holder of a mortgage is authorized to foreclose on that property.

Coakley's lawsuit also claims through the use of the MERS electronic registry system the banks undermined the state's land recording system to avoid registration and recording requirements to facilitate mortgage loan sales.

Coakley acknowledged her frustration with the pace of the national negotiation, and a staff member said talks over the carve-out were not finalized until Thursday afternoon.

"There is so much blame to go around we needed to get some remedies in place," Coakley said.

The Department of Justice announced the \$25 billion national settlement between the banks, the federal government and 49 states Thursday morning, with Oklahoma being the only state not to sign. The settlement took over a year to negotiate after investigations by the Justice Department, the Department of Housing and Urban Development, attorneys general and state banking regulators.

The Justice Department called it the largest ever federal-state civil settlement.

Massachusetts stands to receive \$317.9 million from the settlement, including \$224 million for loan modifications and other direct relief and \$14.6 million for cash payments to borrowers who

lost their homes due to foreclosure from Jan. 1, 2008 through Dec. 31, 2011.

The cash payments for borrowers who lost their homes over the past four years will total between \$1,500 and \$2,000 per person, according to Coakley.

The state will also receive a direct payment of \$46.6 million to support programs to assist homeowners impacted by the housing crisis and predatory lending that Coakley said she hopes to begin disbursing as soon as possible. She does not expect the final papers for the settlement to be filed in federal court until the end of February.

The full settlement calls for \$20 billion to be dedicated to financial relief for borrowers, including at least \$10 billion to reduce the principal on loans for homeowners who are either delinquent in their payments or at risk of defaulting on their mortgages, or whose homes are now worth less than their mortgage.

At least \$3 billion will be dedicated to helping those homeowners who are "under water" on their mortgages after the housing market collapsed by refinancing mortgages at lower interest rates or getting borrowers out of adjustable-rate mortgages where the payments are scheduled to balloon.

Coakley said she is unsure how many Massachusetts homeowners will qualify for relief, or how many would be considered "under water," but noted that 45,000 homeowners in Massachusetts have been foreclosed on during the housing crisis.

Another \$5 billion in cash payments to the federal government and the states will be used to create a \$1.5 billion Borrower Payment Fund to pay borrowers whose homes were sold or taken in foreclosure between 2008 and 2011. The remainder will be used to repay public funds lost as a result of bank misconduct and to fund housing counselors, legal aid and other public housing programs.

Lenders will have three years to fulfill their obligations under the settlement, with incentives built in for banks to reach targeted homeowners within the first 12 months and cash penalties for failing to meet deadlines.

"We believe it's a good step, but we also believe it's only one in a continuous path," Coakley said.

As part of the agreement, Massachusetts has also been included on a joint strike force with the Department of Justice and other states like New York, Delaware, Nevada and California to investigate any criminal liability of the banks from which they were not protected by the settlement.

Coakley said that effort, along with her office's lawsuit, will allow the state to continue to pursue relief for borrowers from other lenders, including Freddie Mae and Fannie Mac.

"We intend to seek with other interested states and the federal government relief for homeowners who have mortgages with those to help stabilize the market and put us on the road to an economic recovery," Coakley said.

Since 2007, Coakley's office has settled seven legal actions against banks and lenders related to foreclosure fraud and deceptive lending, netting more than \$600 million in relief for investors and borrowers, allowing 25,400 people remain in their homes and returning \$60 million to the state.

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