Press Releases

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MADIGAN URGES FEDERAL REGULATORS TO PUSH FOR LARGE-SCALE MORTGAGE MODIFICATIONS

Attorney General Says Misleading Federal Data Could Deter Critical Loan Modifications

Attorney General Lisa Madigan today called on the Office of the U.S. Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) to encourage national banks and federal thrift servicing operations to modify large numbers of mortgage loans that are becoming unaffordable for consumers. Madigan made the call following questionable reports by the OCC and OTS that indicated 55 percent of loan modifications made by national banks and federal thrifts were re-defaulting within six months.

"We have done far too little to modify unaffordable loans, not too much," wrote Madigan in a letter to John C. Dugan, U.S. Comptroller of the Currency, and John M. Reich, director of OTS.

The letter, which was signed by 12 other Attorneys General and 3 state bank regulators as members of the State Foreclosure Prevention Working Group, indicated that data collected by the states conversely show a significantly lower re-default rate on modified loans. The working group has issued reports on loan modification activity by 13 major non-bank subprime servicers showing a re-default rate of 25.8 percent, compared to the 55 percent re-default rate reported for loan modifications made by national banks and federal thrifts for the same period.

Madigan and the other state authorities questioned the OCC re-default figure, and pointed out that it could discourage Congress and other policymakers from promoting affordable loan modifications as a crucial response to the nationwide foreclosure crisis.

"The problem is not modifications," Madigan said. "The issue is the quality, effectiveness and aggressiveness of the modifications. There is a growing body of research that suggests the majority of loan modifications in the past year have not led to meaningful payment relief to homeowners. In fact, many modifications have actually increased consumers' monthly payments."

The re-default rate reported by the OCC and OTS is especially troubling to the states because national banks and federal thrifts service the vast majority of prime, Alt-A, and Option-ARM loans, all of which present immediate challenges in 2009.

"We want to convey our deep concern about OCC and OTS efforts to encourage and monitor loan modification efforts," according to the states' letter. "The data suggests that national banks and federal thrifts are relying on traditional loss mitigation techniques common for prime loans in appreciating markets, rather than applying the techniques and lessons learned by subprime servicing specialists on the need to more aggressively adjust payments and principal balances."

Madigan said the State Foreclosure Working Group would work cooperatively with federal regulators to develop a comprehensive report on the efforts of mortgage servicers to prevent foreclosures in order to provide increased transparency, consistency, and reliability in available data.

"We are concerned that either the institutions supervised by the OCC and OTS have thus far failed to offer homeowners sustainable loan modifications, in contravention of guidance issued by the federal banking agencies, or that the data collection has some other limitations not identifiable by your current report," Madigan and the states wrote.

The state AGs and bank officials asked the two federal regulators to provide a full, transparent report of loan modifications made by national banks and federal thrifts, including detailed information on types and numbers of loan modifications - and whether the modifications had helpful terms for homeowners, such as lower monthly payments.

"Without more transparent and robust reporting, we are concerned that the statistics publicized by the OCC/OTS Report are misleading and likely to mislead policymakers and the public about the effectiveness of loan modification programs," Madigan said.

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