

Media Release
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Delaware Joins Nationwide Mortgage Foreclosure Settlement

Biden says final terms are significantly improved over earlier versions; Delaware's lawsuits and investigations will continue, homeowners will receive relief and military personnel will receive important new protections

Wilmington – Delaware Attorney General Beau Biden announced today that Delaware has joined a mortgage foreclosure settlement between the states, federal government and national mortgage banks.

“The settlement is not perfect, but I signed on to its terms because we can continue our investigations while providing some real relief to Delawareans and important new protections to the men and women who serve in our nation’s armed forces,” Biden said.

Biden emphasized that the settlement now contains the valuable provisions he championed to protect the men and women serving our country in the military. Delaware, together with the Civil Rights Division of the US Department of Justice, led the negotiations that expanded protections under the Servicemembers Civil Relief Act (SCRA) to all active servicemembers serving their country in a hostile fire zone. As the Attorney General has said time and again, these men and women should not have to worry about losing their homes while they are worrying about losing their lives in service of our country. The settlement also now expands mortgage assistance for those servicemembers whose reassignments to new posts require them to uproot and relocate their families on short notice. The Civil Division was also instrumental in obtaining additional SCRA related concessions from the banks, including agreements to make a payment of over \$115,000 to any wrongfully foreclosed upon servicemembers.

Under the settlement, Delaware will receive the benefit of more than \$45 million, including:

- More than \$32 million that banks will provide to current and former homeowners in the form of credits to reduce principal mortgage loans, extinguish second lien mortgage loans and waive deficiencies in short sales, and to provide refinancing to homeowners who are current on their mortgages but are otherwise unable to obtaining refinancing because they owe more than their homes are worth.
- Approximately \$2,000 in payments to individual Delaware homeowners who have been foreclosed upon. Homeowners will be eligible to receive this money without having to release the banks from any liability for wrongful foreclosure.
- \$8.3 million that banks will pay to Biden’s office related to the multistate release of claims, as well as an additional payment of \$2.5 million in exchange for a limited release of penalties against the Banks related to their MERS conduct. This money will be used to fund homeowner assistance programs, educational outreach, support Delaware’s new mortgage mediation program, and fund ongoing and new civil and criminal investigations and cases related to the foreclosure crisis. Delaware can still pursue the settling banks to

enforce any necessary injunctive relief or corrective measures and consumer harm that may stem from the acts alleged in that suit.

The settlement allows Delaware to continue to push forward with its lawsuit, filed this past October, against MERS, the private mortgage registry that is at the heart of the foreclosure crisis. In that suit, Biden alleges that MERS has raised serious questions about who owns what in America and has sowed confusion among homeowners, investors, and other stakeholders in the mortgage finance system, seriously damaging the integrity of the land records that are central to Delaware's real property system, and leading to improper foreclosure practices, such as an entity foreclosing on a house without the authority to do so.

Biden also confirmed that the settlement will not affect his office's ability to pursue its intervention in the proposed \$8.5 billion settlement between the Bank of America and the Bank of New York Mellon, his ongoing joint investigation with the New York Attorney General's office into mortgage securitization practices, and his continued commitment to share resources with other states to investigate possible misconduct. The proposed settlement between Bank of America and the Bank of New York Mellon seeks to resolve claims that investors were sold fraudulent, toxic mortgage-backed securities by Countrywide Financial, now owned by Bank of America. Biden intervened in order to protect the interests of Delaware investors who may have been harmed by these toxic securities and to ensure that borrowers' interests were better represented by requiring Bank of America to re-purchase bad mortgages. Repurchases can remove existing conflicts-of-interest in the mortgage servicing industry that currently incentivize these servicers to foreclose on homeowners instead of exploring modifications of the mortgages.

"For our mortgage system to work, everyone has to play by the rules," Biden said. "Not only must homeowners make their payments on time, but banks must follow the law and not allow their desire to cut corners result in unnecessary foreclosures that are in nobody's interest. We cannot allow the housing crisis to go down in history as a manmade disaster for which no person or entity was held accountable. The American people who have been through so much deserve no less."

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