

# Housing Legislation Fact Sheet

## United States - US

## California - CA

*This document provides commentary and links to the recent US and California legislation that impacts the real estate market. Those deciding on a course of action should educate themselves thoroughly and consult their attorney and account with regard to legal and tax consequences.*

### Bill Summary (brief) & Commentary:

#### United States

##### US HR 3648 Mortgage Forgiveness Debt Relief Act of 2007

Gave 'cancellation of debt' 1099C relief through 12/31/2009 to those eligible who short sell their property or lose to foreclosure (e.g., 25% tax bracket, 200,000 second mortgage loss = 50,000 in taxable income). If this relief is not extended it will cause a mad rush of those unable to afford their homes to short sale or be begging the banks to foreclose on their homes prior to 1/1/2010.

##### US HR 3221 Housing and Economic Recovery Act of July 2008

#### California

##### CA SB 1137 – Perata Mortgage Relief Bill of July 2008

Applies to loans made between January 1, 2003 and December 31, 2007. The bill has 3 main parts:

1. Requires servicers to meet or talk to borrowers and discuss alternatives to foreclosure 30 days BEFORE filing a notice of default.
2. Gives tenants in foreclosed properties 60 days to leave.
3. Local governments can fine owners of unmaintained vacant/foreclosed properties 1,000 per day.

#### California Attorney General vs. Countrywide

This lawsuit affects those with subprime and pay-option adjustable rate loans where first payment was due between 1/1/2004 and 12/31/2007. Suit requires CW to work with those borrowers to waive late fees, offer \$3.4 billion of loan modifications, reduce some loan balances and places foreclosure restrictions. **Borrowers with pay option loans who own only one home might also be eligible for principal reductions** if they owe more than 95% of the current value of their home. Still uncertain is exactly what they mean by **'might'** and what happens when the \$3.4 billion quickly runs out.

#### CA Proposals

AB 1830 vetoed Nov 2008

November 2008, Proposed 90 Day foreclosure delay – lenders can avoid 90 day delay if they can show they are 'aggressively rewriting loans so that homeowners could afford to make lower payments and avoid foreclosures'. Many restriction apply...

### Bill Summary (extended):

##### US HR 3648 Mortgage Forgiveness Debt Relief Act of 2007

Bill eliminates the income tax on mortgage debt forgiveness through January 1, 2010 on primary residences for people in financial hardships and lowers the amount of a gain made through the sale of most non-primary residences that is not subject to income tax. Sets forth rules for determining the allowable amount of the exclusion for taxpayers with non-qualifying indebtedness and taxpayers who are insolvent.

<http://www.opencongress.org/bill/110-h3648/show>

<http://www.whitehouse.gov/news/releases/2007/12/20071220-6.html>

<http://www.govtrack.us/congress/bill.xpd?bill=h110-3648&tab=summary>

### US HR 3221 Housing and Economic Recovery Act of July 2008

- Establishes the Home Ownership Preservation Entity Fund to fund the HOPE (Home Ownership Preservation Entity) for Homeowners Program, which will insure up to \$300 billion for 30 year refinanced loans for distressed borrowers between October 1, 2008-September 30, 2011 (Sec. 1402).
- Defines "qualified loan modification or workout plan" as one that: (1) is scheduled to remain in place until the borrower sells or refinances the property, or for at least five years from the date of adoption of the plan, whichever is sooner; (2) does not provide for a repayment schedule that results in negative amortization; and (3) does not require the borrower to pay additional points and fees.

<http://www.govtrack.us/congress/bill.xpd?bill=h110-3221#votes>

[http://www.realtor.org/government\\_affairs/gapublic/hr\\_3221\\_key\\_provisions](http://www.realtor.org/government_affairs/gapublic/hr_3221_key_provisions)

#### HR 3221 Key amendments:

Foreclosure Assistance Programs S Amdt 4983:

[http://votesmart.org/issue\\_keyvote\\_detail.php?cs\\_id=19120](http://votesmart.org/issue_keyvote_detail.php?cs_id=19120)

Tax Provision Amendments Roll no. 302 Amendment

[http://votesmart.org/issue\\_keyvote\\_detail.php?cs\\_id=19121](http://votesmart.org/issue_keyvote_detail.php?cs_id=19121)

## California

### CA SB 1137 – Perata Mortgage Relief Bill of July 2008

- Applies to loans made between January 1, 2003 and December 31, 2007, when most of the loans that are causing the problems we face today were made.
- The bill takes several important steps to reduce the number of foreclosure sales by requiring servicers to meet or talk to borrowers and discuss alternatives to foreclosure BEFORE filing a notice of default; 2) gives tenants in foreclosed properties 60 days to leave; 3) allows local governments to fine owners of foreclosed properties if they are not maintaining the properties.
- It requires a legal owner to maintain vacant, residential real property purchased by that owner at a foreclosure sale or acquired by that owner through foreclosure under a mortgage or deed of trust. Local government agencies are authorized to impose civil fines and penalties of up to \$1,000 per day per violation on the legal owner for failure to maintain the property.
- With the Gov. Schwarzenegger's signature, this law will require lenders to do the following:
  1. Contact troubled borrowers with loans obtained between 2003 through 2007 and explore various options to avoid foreclosure. Lenders will have to contact them at least a month before they begin the foreclosure process marked by the recording of a "notice of default."
  2. Notify, in six different languages, tenants currently residing in foreclosed properties once a notice of sale has been posted on the property. Tenants will have 60-days (before it was only 30-days) to vacate the property before they are evicted.

3. Maintain the physical appearance. Cities will be allowed to impose \$1,000 fines each day the upkeep of a vacant for foliage growth, trespassers/squatters or prevention of mosquito breeding.

[http://www.dre.ca.gov/mlb\\_sb1137.html](http://www.dre.ca.gov/mlb_sb1137.html)

<http://www.consumerfedofca.org/article.php?id=415>

<http://sccrealestateuncensored.com/2008/new-california-foreclosure-law-sb-1137/>

[http://info.sen.ca.gov/pub/07-08/bill/sen/sb\\_1101-1150/sb\\_1137\\_cfa\\_20080402\\_090259\\_sen\\_comm.html](http://info.sen.ca.gov/pub/07-08/bill/sen/sb_1101-1150/sb_1137_cfa_20080402_090259_sen_comm.html)

### California Attorney General vs. Countrywide - October 2008

Countrywide, deceived borrowers by misrepresenting loan terms, loan payment increases, and borrowers' ability to afford loans. The settlement will enable eligible subprime and pay-option mortgage borrowers to avoid foreclosure by obtaining a modified and affordable loan.

- **Suspension of foreclosures** for borrowers with subprime and pay-option adjustable rate loans pending determination of borrower ability to afford loan modifications;
- Loan modifications valued at up to \$3.4 billion worth of reduced interest payments **and, for certain borrowers, reduction** of their principal balances;
- Waiver of late fees of up to \$33.6 million and prepayment penalties of up to \$25.6 million
- \$27.9 million in payments to borrowers who are 120 or more days delinquent or whose homes have already been foreclosed; and
- Approximately \$25.2 million in additional payments to borrowers who, in the future, cannot afford monthly payments under the loan modification program and lose their homes to foreclosure.

The modification program covers **subprime and pay-option adjustable-rate mortgage loans** in which the borrower's first payment was due between January 1, 2004 and December 31, 2007.

Loan must be secured by owner-occupied property and serviced by Countrywide Financial or one of its affiliates. In addition, the borrower's loan balance must be 75% or more of the current value of the home, and the borrower must be able to afford adjusted monthly payments under the terms of the modification.

Q&A (highlights) Full Q&A [http://ag.ca.gov/consumers/content/faqs\\_countrywide.php](http://ag.ca.gov/consumers/content/faqs_countrywide.php)

Which borrowers may be eligible for loan modifications?

The settlement provides for loan modifications for eligible borrowers who are **60 days or more delinquent**, or become 60 days delinquent, on subprime or pay option loans that they obtained from Countrywide or from a broker working with Countrywide.

Borrowers with these loans may be eligible for modification if the first payment on their loan was due between January 1, 2004 and December 31, 2007, they live in the property that serves as security for the mortgage, they owe 75% or more of the current value of their home, and they can afford the new, lower payment under the modification.

What if my Countrywide loan is in foreclosure? The Attorney General's lawsuit does NOT stop or undo a foreclosure. You are advised to contact a private attorney about your situation as soon as possible, or to try to work out a loan modification or other agreement with your lender.

When will the modifications start? On or before December 1, 2008, Countrywide will begin contacting borrowers who may be eligible for modifications.

What loan terms will borrowers receive if they obtain a modification?

The exact terms of a modification will vary from borrower to borrower, depending on the borrower's circumstances (such as loan amount, the borrower's income, and the current value of the borrower's home). Generally, borrowers will be considered for possible interest rate reductions or conversion to an interest-only loan for five or ten years.

**Borrowers with pay option loans who own only one home might also be eligible for principal reductions if they owe more than 95% of the current value of their home.**

What if I am in foreclosure already? For borrowers who may be eligible for loan modifications, Countrywide is suspending the foreclosure process, and **not starting new foreclosures**. Even though

modifications might not start until December 1, 2008, Countrywide is suspending these foreclosures for now.

Attorney General Press Release: [http://ag.ca.gov/newsalerts/release.php?id=1618&Text:http://ag.ca.gov/cms\\_attachments/press/pdfs/n1618\\_cw\\_judgment.pdf](http://ag.ca.gov/newsalerts/release.php?id=1618&Text:http://ag.ca.gov/cms_attachments/press/pdfs/n1618_cw_judgment.pdf)  
Q&A [http://ag.ca.gov/consumers/content/faqs\\_countrywide.php](http://ag.ca.gov/consumers/content/faqs_countrywide.php)

Countrywide Press Release: <http://my.countrywide.com/media/FinancialAssistanceEN.html>  
Fact Sheet: <http://my.countrywide.com/media/FinancialAssistance1.html>  
Hardship Assistance: <http://my.countrywide.com/media/FinancialAssistance2.html>

## CA Proposals:

**November 6<sup>th</sup>.**

**Schwarzenegger proposes 90-day freeze on pending home foreclosures**

<http://www.latimes.com/business/la-fi-foreclose6-2008nov06%2C0%2C4305860.story>  
<http://www.latimes.com/news/opinion/editorials/la-ed-moratorium10-2008nov10,0,5107428.story>  
<http://www.sacbee.com/103/story/1406398.html>

The governor unveiled a foreclosure relief and long-term mortgage reform initiative as part of an economic stimulus package that he plans to put before lawmakers in a special session of the Legislature scheduled to begin today.

Key to the governor's plan is a 90-day delay in the legal process of foreclosing on a home after an owner-occupier has received a notice of default. Lenders could avoid the 90-day freeze under the plan if they proved they were aggressively rewriting loans so that homeowners could afford to make lower payments and avoid foreclosures.

Lieu's bill, co-authored by Assembly Speaker Karen Bass of Los Angeles, aims to pressure lenders with poor loan workout histories to do better. To avoid moratoriums, lenders would have to adopt workout guidelines like those of the Federal Deposit Insurance Corp., which aim to bring monthly payments below 38 percent of a borrower's income. Lieu's proposal applies only to subprime and so-called non-traditional loans such as interest-only and pick-a-payment. Schwarzenegger's proposal covers all loans.

The governor's plan would also exempt lenders that have modification programs in place.

11/18 A proposed four-month foreclosure moratorium that would crank up the heat on lenders to rewrite more of California's troubled mortgages downshifted to the slow lane.

California Department of Corporations Commissioner Preston DuFauchard said the Schwarzenegger administration deliberately limited its moratorium proposal to 90 days. "We felt that over 100 days you're probably sending a message that it's OK to stop paying your mortgage, and we want to discourage that," he said.

### Local Information and Legislation:

#### San Diego

Legislation [http://www.sandiego.gov/mayor/pdf/vacant\\_lots\\_factsheet\\_feb.7.pdf](http://www.sandiego.gov/mayor/pdf/vacant_lots_factsheet_feb.7.pdf)

Example of tear down <http://www.sandiego.gov/citycouncil/cd8/news/pdf/080617.pdf>

Neighborhood Stabilization Program [http://www.sandiego.gov/iba/pdf/08\\_117.pdf](http://www.sandiego.gov/iba/pdf/08_117.pdf)

Report Violations <http://www.sandiego.gov/cityattorney/criminal/ceu/index.shtml>

Report code violations to the [Neighborhood Code Compliance Department](#) (NCCD) of the City of San Diego (619) 236-5500.

City Council – Toni Atkins <http://www.sandiego.gov/citycouncil/cd3/images/pdf/junejuly08.pdf>

#### Chula Vista

Residential Abandoned Properties – the first city in US to fine homeowners of blighted properties

[http://www.chulavistaca.gov/City\\_Services/Development\\_Services/Planning\\_Building/Boards\\_Commissions/documents/4-14-08MtgItem2.pdf](http://www.chulavistaca.gov/City_Services/Development_Services/Planning_Building/Boards_Commissions/documents/4-14-08MtgItem2.pdf)

<http://www.ci.chula->

[vista.ca.us/city\\_Services/Development\\_Services/Planning\\_Building/Building/Code\\_Enforcement/AbandonedPropertyProg.asp](http://www.ci.chula-vista.ca.us/city_Services/Development_Services/Planning_Building/Building/Code_Enforcement/AbandonedPropertyProg.asp)

Form:[http://www.chulavistaca.gov/City\\_Services/Development\\_Services/Planning\\_Building/PDF/RAPaperForm.pdf](http://www.chulavistaca.gov/City_Services/Development_Services/Planning_Building/PDF/RAPaperForm.pdf)

Temecula

<http://www.cityoftemecula.org/Temecula/Government/CodeEnforcement/AbandonedProperty/>

## Other Resources:

Find legislators that represent your area <http://www.leginfo.ca.gov/yourleg.html>

State Senator 39th District Christine Kehoe <http://dist39.casen.govoffice.com/>  
2445 Fifth Ave., Suite 200 San Diego, CA 92101 Phone: (619) 645-3133

Assembly 75<sup>th</sup> District George A. Plescia <http://republican.assembly.ca.gov/members/a75/index.aspx>  
9909 Mira Mesa Blvd. Suite 130 San Diego, CA 92131 Ph: (858) 689-6290 Fax: (858) 689-6296  
Escondido, Poway, San Diego, La Jolla, Mira Mesa, Scripps Ranch, Fairbanks Ranch, Rancho Santa Fe, Rancho Bernardo. Committee Membership, Arts, Entertainment, Sports, Tourism, and Internet Media, Governmental Organization, Joint Legislative Audit, Revenue and Taxation.

Consumer Home Mortgage Information <http://www.yourhome.ca.gov/>

### Important Bill Amendments & Additional Items:

HR 3221 Amendments (Foreclosure Assistance and Tax Provisions)

Foreclosure Assistance Programs - S Amendment 4983  
[http://votesmart.org/issue\\_keyvote\\_detail.php?cs\\_id=19120](http://votesmart.org/issue_keyvote_detail.php?cs_id=19120)

### **Highlights:**

-Establishes the Refinance Program Oversight Board, which is responsible for coordinating a program that insures "homeownership retention mortgages," which are refinance loans designed for borrowers who are at risk of foreclosure (Sec. 112).

-Specifies that the aggregate original principal mortgages insured under the "homeownership retention mortgage" program may not exceed \$300 billion (Sec. 112).

-Expands eligibility for FHA mortgage insurance to include borrowers who have been deemed "high risk" due to having a credit score equivalent to a Fair Isaac Corporation (FICO) score of less than 560 (Sec. 206).

-Provides incentives for "high risk" borrowers who have consistently paid their premiums on time that would reduce the amount of annual premium payments to payment levels equal to that of individuals who are not deemed "high risk" borrowers (Sec. 208).

-Mandates the establishment of underwriting standards which allow the FHA to insure mortgage loans for qualified borrowers who have existing mortgages with adverse terms or rates, qualified borrowers who do not have access to mortgages "at reasonable rates and terms for such refinancing due to adverse market conditions", and qualified borrowers who are in default or at imminent risk of being in default (Sec. 210).

-Outlines the following eligibility requirements for receiving insurance for a "homeownership retention mortgage":

- -The insured residence shall be the sole residence in which the mortgagor has a full ownership interest,
- -The mortgagor shall be verifiably unable to pay the existing mortgage(s) and, as of March 1, 2008, the mortgagor shall have had a mortgage debt-to-income ratio of greater than 35 percent,
- -The new loans shall not exceed 90 percent of the property's value,
- -Prepayment, default, and delinquency penalties on existing mortgages shall be waived,
- -Indebtedness under the existing senior mortgage shall have been reduced by such percentage as the Refinance Program Oversight Board may require, and holders of liens on property securing a mortgage to be insured under the program shall agree to accept the proceeds of the insured loan as payment in full for all indebtedness under all existing mortgages,
- -The Secretary of Housing and Urban Development shall hold and retain a lien on the residence which will be subordinate to the mortgage insured under the program but will be senior to all other mortgages,
- -The mortgage insured under the program shall bear a single rate which will be fixed for the entire mortgage term,
- -The mortgagor shall undergo a criminal history check to ensure that he or she has not been convicted of mortgage fraud in the past seven years (Sec. 112).

-Requires the implementation of the following underwriting standards for the "homeownership retention mortgage" program: the mortgagor insured under the program shall have "a reasonable expectation" of repaying the mortgage, there shall be no denial of insurance based on credit scores, based on previous delinquency or default, or based on bankruptcy, and a total debt-to-income ratio of up to 50 percent shall be allowed (Sec. 112).

-Terminates "homeownership retention mortgages" two years after the enactment of this amendment, in the absence of any approved extensions (Sec. 112).

-Increases the allowed levels of principal obligations for mortgages insured by the FHA (Sec. 203).

-Extends the term of mortgages insured by the FHA from thirty-five to forty years (Sec. 204).

-Establishes the Federal Housing Finance Agency, which shall supervise and regulate Fannie Mae, Freddie Mac, and Federal Home Loan Banks (Sec. 311).

-Raises limits on loans that Fannie Mae and Freddie Mac can purchase from \$93,750 to \$417,000 for a single-family residence, from \$120,000 to \$533,850 for a two-family residence, from \$145,000 to \$645,300 for a three-family residence, and from \$180,000 to \$801,950 for a four-family residence (Sec. 333).

Tax Provision Amendments Roll no. 302 Amendment

[http://votesmart.org/issue\\_keyvote\\_detail.php?cs\\_id=19121](http://votesmart.org/issue_keyvote_detail.php?cs_id=19121)

### **Highlights:**

-Provides first-time homebuyers with a tax credit of up to \$7,500 for residences purchased on or after April 9, 2008, which the homebuyers will repay over fifteen years following their purchase (Sec. 712).

-Provides existing homeowners with a real property tax deduction of up to \$350 for an individual or \$700 for a joint return (Sec. 713).

-Provides the states with \$10 billion of additional tax-exempt housing bonds to be issued before December 31, 2010 and used for qualified residential rental projects or mortgage issues, including the refinancing of mortgages on residences originally financed through subprime loans (Sec. 715).

-Provides that bonds guaranteed by federal home loan banks between the date of enactment of this bill and December 31, 2010 are eligible for treatment as tax-exempt bonds (Sec. 717).

-Repeals the Alternative Minimum Tax limitations on tax-exempt housing bonds issued after enactment

of this bill and repeals limits on low-income housing and rehabilitation credits for periods after December 31, 2007 (Sec. 716).

-Requires that the Secretary of Housing and Urban Development implement procedural changes to expedite the approval of low-income multifamily housing projects (Sec. 752).

-Requires that the Secretary of Agriculture take actions to facilitate timely approval of requests to transfer ownership or control of multifamily housing projects for which assistance is provided by the Department of Agriculture in conjunction with certain low-income housing credits (Sec. 753).

-Changes the limitation on the sale, foreclosure, or seizure of property owned by servicemembers from 90 days to one year after their return from military service (Sec. 761).

-Requires that any charges accrued by a servicemember who defaults on an obligation for two consecutive months during their service or during the one-year limitation on foreclosures for servicemembers shall be provided with a statement describing his or her liability (Sec. 762).

California SB 1137 Simple Breakdown [http://www.dre.ca.gov/mlb\\_sb1137.html](http://www.dre.ca.gov/mlb_sb1137.html)

### ***New Rules on Foreclosures as of July 8, 2008***

The rules that govern how a lender or an authorized agent of the lender can foreclose on an owner-occupied home have changed. Senate Bill 1137 (Perata) (Chapter 69) became law with Governor Schwarzenegger's signature on July 8, 2008. It is important for homeowners to know their rights and for anyone who initiates or files foreclosures to become familiar with SB 1137. The following is a summary of the new rules:

**Applies only to loans made from January 1, 2003 to December 31, 2007 and is in effect until January 1, 2013 unless extended by law. These rules took effect September 8, 2008.**

- A Notice of Default cannot be filed until 30 days after contact is made with the borrower either in person or by telephone to assess the borrower's financial situation and explore options to avoid foreclosure. The borrower must be advised that he or she has a right to request another meeting within 14 days.
- The borrower must be provided with the toll-free telephone number of the U.S. Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency.
- If a Notice of Default is filed, it must include a declaration that the lender or authorized agent contacted the borrower, tried with due diligence to contact the borrower, or the borrower surrendered the property.
- If a Notice of Default was filed before July 8, 2008, then the lender or authorized agent must include as a part of the notice of sale a declaration that states the borrower was contacted and lists any efforts made to contact the borrower.
- A borrower may designate a HUD-certified counseling agency, attorney or other advisor to discuss with the lender or authorized agent on his or her behalf, options to avoid foreclosure. Any modification or workout plan must be approved by the borrower.
- A Notice of Default may be filed when the borrower has not been contacted if the failure to contact the borrower occurred despite the due diligence of the lender or authorized agent to contact the borrower.
- A lender or authorized agent must provide a means for the borrower to contact it in a timely manner, including a toll-free telephone number that will provide access to a live person during business hours.
- If the lender or authorized agent has a Web site, certain specified information must be posted to assist borrowers to avoid foreclosure.

- When posting a notice of sale on a property, a trustee or authorized agent must also mail to the "Resident of the Property Subject to Foreclosure Sale" a specified notice in English, Spanish, Vietnamese, Tagalog, Chinese and Korean, stating that the property may be sold at foreclosure and if you are renting the property, the new owner may give a new lease or rental agreement or provide you with a 60-day eviction notice. A copy of this notice is available on the DRE Web site at [www.dre.ca.gov/mlb\\_industry.html](http://www.dre.ca.gov/mlb_industry.html)

**Applies regardless of when the loan was made and is in effect until January 1, 2013 unless extended by law.**

- A legal owner must maintain vacant residential properties purchased at a foreclosure sale or acquired through a foreclosure. A government entity can impose a civil fine up to \$1,000 per day for violations.
- Tenants or subtenants living in rental housing when a property is sold in foreclosure must be given 60 days written notice before they can be evicted.

The above provides a summary of the major provisions of Senate Bill 1137; however consumers, lenders and their authorized agents and other interested parties should completely review the law available at [www.leginfo.ca.gov](http://www.leginfo.ca.gov)

## Countrywide Detailed Information

Countrywide Press Release: <http://my.countrywide.com/media/FinancialAssistanceEN.html>

### **Bank of America Announces Nationwide Homeownership Retention Program for Countrywide Customers**

*Nearly 400,000 Countrywide Borrowers Could Benefit After Program Launches December 1*

CALABASAS, CA - Bank of America today announced the creation of a proactive home retention program that will systematically modify troubled mortgages with up to \$8.4 billion in interest rate and principal reductions for nearly 400,000 Countrywide Financial Corporation customers nationwide.

The program was developed together with state Attorneys General and is designed to achieve affordable and sustainable mortgage payments for borrowers who financed their homes with subprime loans or pay option adjustable rate mortgages serviced by Countrywide and originated prior to December 31, 2007. Bank of America acquired Countrywide July 1, 2008.

"We are confident that together with the Attorneys General we have developed a comprehensive program that provides more solutions than ever before to assist troubled borrowers and put them back on the path to sustained home ownership," said Barbara Desoer, president, Bank of America Mortgage, Home Equity and Insurance Services. "Since acquiring Countrywide in July, we have committed significant resources and developed innovative programs to help as many Countrywide customers as possible stay in their homes."

Countrywide mortgage servicing personnel will be equipped to serve eligible borrowers with new program elements by December 1, 2008 and will then begin proactive outreach to eligible customers. Foreclosure sales will not be initiated or advanced for borrowers likely to qualify until Countrywide has made an affirmative decision on the borrower's eligibility.

The centerpiece of the program is a proactive loan modification process to provide relief to eligible borrowers who are seriously delinquent or are likely to become seriously delinquent as a result of loan features, such as rate resets or payment recasts.

Various options will be considered for eligible customers to ensure modifications are affordable and sustainable. First-year payments of principal, interest, taxes and insurance will be targeted to equate to 34 percent of the borrower's income. Modified loans feature limited step-rate interest rate adjustments to ensure annual principal and interest payments increase at levels with minimal risk of payment shock. Modification options include, among others:

- FHA refinancing under the HOPE for Homeowners Program;
- Interest rate reductions, which may be granted automatically through streamlined processing; and
- Principal reductions on Pay Option adjustable rate mortgages that restore lost equity for certain borrowers.



The program applies to eligible mortgage loan customers serviced by Countrywide and who occupy the home as their primary residence. Under the national program, Countrywide will not charge eligible borrowers loan modification fees, and Countrywide will waive prepayment penalties for subprime and pay option ARM loans that it or its affiliates own. Some loan modifications will be subject to compliance with servicing contracts and some will require investor approval.

"Now more than ever homeowners and home buyers are looking to Bank of America as the lender they trust and as a leader that can renew America's confidence in home ownership," said Desoer. "Combined with our strong track record in responsible lending and previously announced lending practices commitments, this bold new program makes it clear that Bank of America is committed to be the leader in responsible mortgage lending practices."

As part of agreements to resolve outstanding claims against Countrywide by certain states, borrowers in participating states will additionally be eligible to access their share of:

- A Foreclosure Relief Program of \$150 million on a nationwide basis for payment to eligible Countrywide servicing customers who suffered foreclosure or are currently at serious risk of foreclosure having made only minimal payments since the time their mortgages were originated by Countrywide; and
- An additional program, projected to make payments up to \$70 million to support customers with loans serviced by Countrywide who face imminent foreclosure, providing financial assistance with their transition from home ownership.

As part of the state agreements, Countrywide is further committing to eligible borrowers in participating states that it will waive late fees associated with a borrower's default in finalizing modifications under the program.

In addition, states that have not yet become participants in Bank of America's program will be provided an opportunity to do so, which would enable their residents to become eligible for these benefits.

"Our program represents principal and interest reductions over time to borrowers on loans Countrywide owns and on loans Countrywide services on behalf of investors," said Joe Price, Bank of America Chief Financial Officer. "By taking projected foreclosure losses and instead directing those funds into these proactive foreclosure prevention efforts, we create a solution in the best interests of both our customers and the investors whose loans and securities we service. Of the eligible loans, about 12 percent are now held by Bank of America. The cost of restructuring these loans is within the range of losses we estimated when we acquired Countrywide."

Bank of America is one of the world's largest financial institutions, serving individual consumers, small and middle market businesses and large corporations with a full range of banking, investing, asset management and other financial and risk-management products and services. The company provides unmatched convenience in the United States, serving more than 59 million consumer and small business relationships with more than 6,100 retail banking offices, more than 18,500 ATMs and award-winning online banking with more than 25 million active users. Bank of America offers industry leading support to more than 4 million small business owners through a suite of innovative, easy-to-use online products and services. The company serves clients in more than 150 countries and has relationships with 99 percent of the U.S. Fortune 500 companies and 83 percent of the Fortune Global 500. Bank of America Corporation stock (NYSE: BAC) is a component of the Dow Jones Industrial Average and is listed on the New York Stock Exchange.

**Countrywide Customer Contact:** Homeownership Retention Program not available until Dec. 1. Countrywide will begin its proactive outreach to eligible borrowers on December 1, 2008.

**Homeownership Retention Division:** 800.669.6650

**General Customer Service:** 800.669.6607

**Media Contact:** Dan Frahm, 800.796.8448

**Investor Contact:** Kevin Stitt, 704.386.5567, or Lee McEntire, 704.388.6780

Countrywide Fact Sheet: <http://my.countrywide.com/media/FinancialAssistance1.html>

## **Bank of America's Nationwide Homeownership Retention Program for Countrywide Customers Fact Sheet**

- Countrywide and state Attorneys General has cooperated in the development of a comprehensive home retention program to systematically modify troubled mortgages with aggressive solutions, including interest rate and principal reductions.
- It is anticipated that the loan modification program in this agreement will result in an estimated \$8.4 billion in permanent payment relief to an estimated 400,000 Countrywide borrowers nationwide.

- In participating states, the agreement provides up to \$150 million in payments to borrowers who defaulted early in their loan terms, while committing to a "soft landing" program to help borrowers who are unable to retain their homes with relocation costs.
- Countrywide will begin its proactive outreach to eligible borrowers on December 1, 2008.

## Formalization of Existing Commitments

- Countrywide no longer offers "subprime," "high cost" or "negative amortization" mortgages and has significantly curtailed no- and low-documentations loans.
- Broker compensation will be limited to 4% of the amount borrowed.
- Countrywide will retain, for at least one year following the acquisition of BAC, a minimum of 3,900 personnel to assist with loan modifications and other foreclosure avoidance measures.
- We will continue to proactively seek delinquent borrowers and offer streamlined loan modifications and report the progress of this agreement on a regular basis.

## Home Retention Programs

- Beginning December 1, 2008, Countrywide will proactively contact subprime and Pay Option ARM borrowers whose loans are scheduled for an interest rate change. We will invite them to contact us if they believe they will not be able to afford the new payments.
- Countrywide will not advance foreclosures for eligible borrowers for the time necessary to determine the borrowers' interest in staying in the home and their ability to afford the new terms as well as the investor's willingness to accept a loan modification.
- Countrywide will waive late/delinquency fees for missed payments when modifying loans and will not charge modification fees to borrowers in the participating states.
- When possible, Countrywide will waive prepayment penalties in connection with any workout or refinance, whether or not the new loan is originated with Countrywide.

### Eligibility

Borrowers eligible for loan modifications under this program must have received a qualifying subprime mortgage or a Pay Option adjustable rate mortgage prior to December 31, 2007, and the property must be a 1-4 unit owner-occupied residential property. In addition, certain other requirements are set out in the program:

- The borrower is 60 days or more delinquent and the current loan-to-value ratio is 75% or higher;
- The borrower is current today but becomes 60 days or more delinquent at any time prior to June 30, 2012, and the loan-to-value ratio at the time of the modification is 75% or higher;
- The borrower has a subprime hybrid ARM and the borrower is current but reasonably likely to become 60 days or more delinquent as a consequence of a rate reset, and the loan-to-value ratio at the time of the modification is 75% or higher;
- The borrower has a Pay Option ARM and the borrower is current but reasonably likely to become 60 days or more delinquent as a consequence of a rate reset or payment recast based on negative amortization, and the loan-to-value ratio at the time of the modification is 75% or higher.

In addition, customers may be eligible for the early payment default benefit of this program if: (1) the customer has a Countrywide-originated first lien loan; (2) the loan was on or prior to December 31, 2007; (3) the customer's primary residence is the property that secures the loan; (4) the customer has made three or fewer payments over the life of the loan (the borrower's state may expand eligibility); and (5) the customer has either lost his home to foreclosure or is at least 120 days in arrears on mortgage payments.

### Loan Modification Program Details

Countrywide will first offer eligible borrowers an FHA refinance under the HOPE for Homeowners Program. If not eligible for that program, Countrywide will offer these specific programs based on product type.

**Subprime 2-, 3- 5-, 7- and 10-Year Hybrid ARM** borrowers will receive an unsolicited extension/restoration of the introductory rate for five years and an invitation to contact Countrywide for additional relief if affordability concerns persist. Borrowers who cannot afford the introductory rate will be considered on a streamlined basis for a five-year interest rate reduction to as low as 3.5% (based on the affordability equation) and a conversion to a fixed-rate mortgage at the end of five years.

**Pay Option ARM** borrowers accepting a streamlined loan modification option will have the negative amortization feature eliminated from their loan. The mortgage interest rate will be reduced to as low as 2.5%, and the loan will be converted into either a fixed-rate mortgage or a ten-year interest-only loan. For single property owners who currently have no equity in their homes, Countrywide will write-down the principal balance to as low as 95% of the current value of the property to restore an equity position.

**Subprime Fixed-Rate** borrowers will receive a streamlined loan modification, by reducing the mortgage interest rate to as low as 2.5% and converting the loan into a fixed-rate or 10-year interest only loan with affordable step rate increases and lifetime cap.

Loan modification programs will provide payments within the limits of an Affordability Equation set out in the agreement and be targeted to equate to 34% of the borrower's household income.

## Foreclosure Relief Programs

These additional programs are available to Countrywide borrowers in states participating in this agreement. Currently, these programs are available in the following states: Arizona, California, Connecticut, Delaware, Florida, Illinois, Iowa, Michigan, Nevada, North Carolina, Ohio, Texas, Pennsylvania, and Washington.

### Relocation Assistance Program

Countrywide borrowers facing foreclosure who agree to voluntarily leave the premises at the time of the foreclosure sale will be provided with a cash payment. Countrywide anticipates payments to 35,000 borrowers in a total amount of more than \$70 million to assist with relocation costs.

### Foreclosure Relief Program

Countrywide will allocate up to \$150 million nationally under a foreclosure relief program to provide relief for borrowers whose loans were originated directly by Countrywide (or through brokers) with owner-occupied properties who have either experienced a foreclosure sale or are 120 days or more delinquent as of the date of this agreement. These borrowers will be eligible for the payment if they made three or fewer payments over the life of the loan (or meet more inclusive criteria determined by each state). The funds will be allocated for each state through a pro-rata formula based on the number of eligible borrowers with a Countrywide-originated first mortgage.

Countrywide Hardship Assistance: <http://my.countrywide.com/media/FinancialAssistance2.html>

## Financial Hardship Assistance

Having financial difficulty? We want to help you find solutions

- Get payment plan options
- Modify your rate
- Modify your payment

These are some of the ways we may be able to help. Call us today.

### Relief Starts with a Phone Call

Everyone goes through difficult times, and that's when you need someone on your side the most. Whether you have questions about your mortgage or home equity, our trained associates have solutions that may be right for you. We're here for you. **Call us today at (800) 669-6650.**

### Mortgage and Home Equity

If you're having trouble keeping up with payments, we may be able to help you get back on track with:

- Repayment plans up to 12 months
- Extensions from 1-3 months
- Modifications to the rate, term and monthly payment of your loan or line of credit
- Debt management programs with internal or nonprofit independent agencies

The sooner we can talk, the sooner we can try to help.

### Housing and Urban Development (HUD) can help you too.

HUD is a U.S. government agency that increases home ownership and supports home buyers. HUD offers free or low-cost counseling throughout the country. To find out where the nearest counseling agency is in your area, please call (800) 569-4287.

### Your Next Steps:

Call us today.

Please be prepared to discuss household income and expenses.

You should collect together and be prepared to fax or mail one or more of the following and have ready when you call:

- Have your Loan Number and Property Address at hand
- A brief explanation of your circumstances
- Recent income documents (such as Pay stubs; Benefit statements from Social Security, Disability, Unemployment, Retirement, or Public Assistance. If you are Self-employed, have your tax returns or a Year-to-Date Profit and Loss statement available for reference)
- Bank Statements and Tax Returns for Past 2 Years