Countrywide to Set Aside $8.4 Billion in Loan Aid

By GRETCHEN MORGENSON

Countrywide Financial has agreed to the largest program ever to modify home loans, as part of a settlement with officials in 11 states, just days after the federal government adopted a giant financial rescue package without any relief for distressed homeowners.

Countrywide, the nation’s largest lender and loan servicer, recently acquired by Bank of America, had been sued by the states over what they said were predatory lending practices. To settle the suits, it will provide $8.4 billion in direct loan relief, affecting an estimated 400,000 borrowers nationwide, while waiving certain fees and setting aside additional funds to help people in foreclosure and relocating.

“Countrywide’s greed turned the American dream into a nightmare for thousands of Californians who now face foreclosure,” said Jerry Brown, the attorney general of California. He led the negotiations for the states with Lisa Madigan, the Illinois attorney general. “Our goal here is to help as many people stay in their homes as possible and get some compensation for those who have already been pushed out of their homes,” he said.

Mr. Brown expects loans worth $3.4 billion to be modified in California, where homeowners have been hit hard in the housing bust.

The Countrywide effort is the most comprehensive, mandatory loan workout program since the mortgage crisis began last year. Congress has proposed various programs, but those measures did not make it into the final $700 billion government bailout. Since taking control of Fannie and Freddie Mac, the two housing giants, the Federal Housing Finance Agency has said it is looking at expanding modifications on the loans that Fannie and Freddie own or guarantee.

After seizing IndyMac, the Federal Deposit Insurance Corporation began a loan modification program that it said could be a template in other takeovers. The agency hopes to help tens of thousands of borrowers whose interest rates are being reset higher in the early stages of that program.

It is encouraging people who have fallen severely behind on their payments or who have defaulted to switch into a fixed-rate mortgage at current rates of about 6 percent. Countrywide has made pledges before to modify large swaths of loans. Late last year, it vowed to help about 82,000 borrowers who were facing higher payments through 2008. But the new program will be mandatory and will be monitored by state officials.

Along with the direct relief, Countrywide will waive late fees of $79 million and prepayment penalties of $56 million and suspend foreclosures on delinquent borrowers with the riskiest loans.

A foreclosure relief fund will be created with $150 million from Countrywide to help borrowers who are four months or more behind on their payments or whose homes have already been foreclosed on. The company
will also provide $70 million to help troubled borrowers relocate to rental housing. In all, Countrywide is setting aside $8.7 billion to help borrowers.

A Bank of America spokesman, James E. Mahoney, said that the cost of the program had been anticipated by the company in its acquisition of Countrywide.

“We have worked with attorneys general across the country to resolve the issues relating to Countrywide’s practices,” Mr. Mahoney said. “Bank of America has put our own leadership in charge of Countrywide and have committed to a very different set of business practices going forward.”

Countrywide settled with the states without admitting any wrongdoing.

Under the terms of the settlement, Countrywide will reduce principal balances in some cases and cut interest rates in others. Rates could decline to 2.5 percent, depending upon a borrower’s ability to pay, and remain at that level for five years. Then the rate will adjust to prevailing interest rates charged by Fannie Mae on its fixed-rate mortgages.

The program will focus on borrowers who were placed in the riskiest loans, including adjustable-rate mortgages whose interest rates reset significantly several years after the loans were made. Pay-option mortgages, under which a borrower must pay only a small fraction of the interest and principal, thereby allowing the loan balance to increase, are also included in the modifications.

Borrowers whose first payment was due between Jan. 1, 2004, and Dec. 31, 2007, can participate. The loan balance must be at least 75 percent of the current value of the home, and the borrower must be able to afford the adjusted monthly payments.

“We have created the first comprehensive, mandatory loan-modification program with the largest loan servicer in the country, and it is going to help homeowners stay in their homes,” Ms. Madigan said. “We will use this model when we work with other servicers as well.” She said that approximately $185 million worth of loans in Illinois would be modified under the settlement.

Illinois had accused Countrywide of relaxing underwriting standards, structuring loans with risky features, and misleading consumers with hidden fees and fake marketing claims, like its “no closing costs loan.” Countrywide also created incentives for its employees and brokers to sell questionable loans by paying them more on such sales, the complaint said. In reviewing one Illinois mortgage broker’s sales of Countrywide loans, the complaint said the “vast majority of the loans had inflated income, almost all without the borrower’s knowledge.”

Other states in the settlement are Arizona, Connecticut, Florida, Iowa, Michigan, North Carolina, Ohio, Texas and Washington. It is the largest predatory lending settlement in history, far exceeding the $484 million deal struck in 2002 with the Household Finance Corporation.

“This agreement demonstrates the effectiveness of states in addressing predatory lending and other consumer protection matters, proving states should not be pre-empted by federal legislation,” said Mr. Brown.
The program will be administered by state officials who will examine regular reports from Bank of America. The program will begin Dec. 1 as Bank of America contacts borrowers. In the meantime, Bank of America said Countrywide customers can call 800-669-6607 to discuss their loans.

The terms of the settlement do not address Angelo R. Mozilo, the former chief executive of Countrywide Financial, or David E. Sambol, the company’s former president. The states had included both as defendants. Mr. Brown said he would pursue litigation against both men. Neither could be reached for comment.