112TH CONGRESS
1ST SESSION

# H. CON. RES. 85

Expressing the sense of the House of Representatives regarding the proposed settlement between the Department of Justice, the State attorneys general, and mortgage servicers regarding mortgage fraud and the economic crisis.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2011

Ms. BALDWIN (for herself, Mr. HIGGINS, Mr. TOWNS, Mr. TIERNEY, Mr. HINCHEY, Ms. LEE of California, Ms. SCHAKOWSKY, Mr. CICILLINE, Ms. KAPTUR, Mr. GRIJALVA, Mr. JACKSON of Illinois, Ms. WOOLSEY, Mr. MCDERMOTT, Mr. STARK, Mr. THOMPSON of California, Ms. MATSUI, Mr. HASTINGS of Florida, Mr. HOLT, Ms. MOORE, Mr. MCGOVERN, Ms. TSONGAS, Mr. ELLISON, Mr. COHEN, Mr. LARSON of Connecticut, Mr. CUMMINGS, Mr. KUCINICH, Mr. GUTIERREZ, and Mr. CONYERS) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

# CONCURRENT RESOLUTION

Expressing the sense of the House of Representatives regarding the proposed settlement between the Department of Justice, the State attorneys general, and mortgage servicers regarding mortgage fraud and the economic crisis.

Whereas the United States has experienced a mortgage crisis since 2004;

Whereas the mortgage crisis resulted from a number of causes in the housing and credit markets, including an increase in non-traditional mortgages such as risky subprime loans, substandard underwriting practices by lenders, and unstable risk-management practices;

Whereas, since 2006, more than 3,000,000 houses in the United States have been recaptured through foreclosure;

Whereas the rate of foreclosures has increased an additional 23 percent since 2008, with approximately 2,900,000 home mortgages in the United States in foreclosure in 2010;

Whereas homeowners across the Nation have been hit hard by the mortgage crisis with one in four homeowners ‘‘underwater’’ on their mortgages, meaning that their home is worth less than the outstanding balance due on the mortgage on the property;

Whereas underwater homeowners nationwide owe, in aggregate, approximately $750 billion more than their homes are currently worth;

Whereas the ongoing housing crisis and significant increase in mortgage delinquencies and foreclosures has contributed to the current financial crisis;

Whereas the Federal Bureau of Investigation (FBI) has stated that ‘‘mortgage fraud is a growing crime threat that is hurting homeowners, businesses, and the national economy’’;

Whereas the FBI has increased its investigative resources to address the mortgage fraud crisis;

Whereas the FBI experienced an increase in suspicious activity reports filed by federally insured financial institutions from 6,936 reports in 2003 to 67,190 in 2009;

Whereas investigations by the FBI and other law enforcement entities, including State attorneys general, have focused on fraud related to loan origination, mortgage loan securitization, and mortgage servicing;

Whereas, in the fall of 2010, reports nationwide exposed fraudulent foreclosure filings, including the practice of signing mortgage documents without verifying the content of the document, often referred to as ''robo-signing'';

Whereas the attorneys general of the 50 States initiated an official investigation into the robo-signing scandal in October 2010;

Whereas the State attorneys general and the Federal Government have pursued a settlement with mortgage servicers, including Bank of America, JPMorgan Chase, Ally Financial, and Wells Fargo, that exceeds the original goal of addressing the robo-signing scandal;

Whereas financial institutions have faced lawsuits regarding their role in the subprime mortgage boom and accompanying financial crisis;

Whereas Bank of America has reached an agreement to pay $8.5 billion to settle claims over purchases of mortgage-backed securities by Countrywide Financial, which is owned by Bank of America;

Whereas the $8.5 billion settlement with Bank of America represents only 2 percent of the $424 billion in mortgages that Countrywide issued and only 4 percent of the outstanding principal on the loans;

Whereas the Federal Housing Finance Agency has sued a group of banks, including Bank of America, Citigroup, JPMorgan Chase, and Barclays, for $200 billion for losses resulting from mortgage-backed securities;

Whereas the Federal Housing Finance Agency lawsuit pertains to loans sold to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) that were based on incorrect or missing information;

Whereas Fannie Mae and Freddie Mac neared insolvency in 2008 due to subprime mortgage losses, were rescued by United States taxpayers, and have operated under Federal conservatorship since 2008;

Whereas State pension funds were cheated out of critical investments due to fraudulent sales of mortgage-backed securities;

Whereas the fraudulent sales of mortgage-backed securities has resulted in financial losses for State's worker retirement funds, whose investors and beneficiaries include teachers, firefighters, and police;

Whereas securities fraud lawsuits have been filed on behalf of beneficiaries of State pension funds, including a class action lawsuit against Merrill Lynch, now owned by Bank of America, for providing misleading documents for $16.5 billion in certificates;

Whereas banks are required to register and pay fees with county offices in each State for each sale or resale of a mortgage;

Whereas many banks utilized the Mortgage Electronic Registration Systems (MERS) electronic mortgage registry, which permitted these financial institutions to repeatedly avoid paying local taxes;

Whereas local communities lost local tax revenue through the banks' fraudulent behavior and local counties are now suing to reclaim the significant amount of lost revenue;

Whereas the proposed settlement between the State attorneys general, the Federal Government, and mortgage servicers is reported to be for $20 billion;

Whereas the financial repercussions for the victims of the mortgage servicers' fraudulent behavior, including homeowners, State pension beneficiaries, and local communities, far exceeds $20 billion;

Whereas reports of the proposed settlement describe that the settlement may halt State investigations and prosecutions into the mortgage servicers' fraudulent behavior;

Whereas the prevention of future fraudulent behavior would be aided by examining the findings of investigations into past such behavior;

Whereas California Attorney General Kamala Harris has withdrawn from the proposed settlement due to concerns that the proposed settlement amount was insufficient; and

Whereas New York Attorney General Eric Schneiderman has resisted requests to halt New York State investigations into mortgage fraud as a condition of joining the settlement: Now, therefore be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the House of Representatives that any action taken by the Department of Justice should be consistent with the following goals:

(1) The mortgage servicers who engaged in fraudulent behavior should not be granted criminal or civil immunity for potential wrongdoing related to illegal mortgage and foreclosure practices.

(2) The Federal Government and State attorneys general should proceed with full investigations into claims of fraudulent behavior by mortgage servicers.

(3) Any financial settlement reached with mortgage servicers should appropriately compensate for, and accurately reflect, the extent of harm to all victims, including homeowners and State pension beneficiaries, caused by the mortgage servicers' fraudulent behavior.

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