

# **Summary Description of Principal Paydown Plan**

Proposed by the National Association of Consumer Bankruptcy Attorneys

## ***Eligibility:***

- Chapter 13 bankruptcy debtors only
- Owner-occupied homes only
- First mortgage must be underwater
- First mortgage balance no more than 125% of highest FHFA area loan limits within 7 years

## ***Benefits to borrower:***

- For the first 5 years, the monthly mortgage payments are calculated like HAMP payments, based on 31% of gross income [e.g., \$4,000 monthly gross income times 31% equals \$1,240 housing cost, minus \$200 monthly ongoing property taxes and minus \$40 monthly ongoing property insurance equals monthly payments of \$1,000 per month to be paid toward the first mortgage during the first 5 years.]
- Interest on the first mortgage is reduced to 0% for 5 years, and then amortized over 25 years at the Freddie Mac survey rate. Zero percent interest is selected in order to quickly pay down the negative equity in the property. [For general calculation purposes, however, the use of a minute fraction of a percent would presumably produce the same effect.]
- Borrower is able to substantially reduce negative equity by making payments on the mortgage, and hopefully acquire some equity during the 5 year period

## ***Benefits to taxpayers and investors:***

- There is **no** bankruptcy cramdown or principal reduction
- Borrower restarts regular monthly payments on the loan
- Borrower's back-end loan-to-value ratio is vastly improved and likelihood of redefault is greatly reduced – junior mortgages can usually be wiped out by the Chapter 13, along with credit card, medical debt, etc.
- Borrower agrees to settlement of claims against the investors and servicers (e.g., robo-signing claims)
- Bankruptcy judge supervises and enforces the loan modification
- Bankruptcy judge confirms the title of the property, eliminating future title challenges
- The modified loan would have long-term viability and improve the economic stability of the local community

## ***Estimate of number of properties that could benefit from this plan:***

- Current pending nationwide Chapter 13 bankruptcy cases that include mortgage claims<sup>1</sup> – 880,000.
- Expected additional Chapter 13 bankruptcy cases with mortgage claims that will be filed during the next five years<sup>2</sup> – 1,188,916.
- Total pending and anticipated Chapter 13 bankruptcy cases with mortgage claims within the next five years equals approximately 2 million.
- *Enhancing factor:* Mortgage claims listed in Chapter 13 bankruptcy cases are more likely to be in default than the average mortgage claim, based upon general knowledge of bankruptcy attorneys.
- *Enhancing factor:* Nearly 75% of underwater properties have loans with interest rates that are higher than market rate<sup>3</sup>. The borrower is hit with a double-whammy of high interest and negative equity, increasing the likelihood that the borrower will be unable to continue to pay the mortgage payments.

## **Sources:**

- 1 Chapter 13 National Data Center, November 2010, averaged and rounded, based upon daily data.
- 2 Calculated based upon current Chapter 13 filing rate published by the Administrative Office of the U.S. Courts, Bankruptcy Filing Statistics
- 3 *New CoreLogic ® Data Reveals Q2 Negative Equity Declines in Hardest Hit Markets and 8 Million Negative Equity Borrowers Have Above Market Rates*, CoreLogic ®, September 13, 2011