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Kevin F. Jursinski: Mortgage welfare: New entitlement evolves and grows

KEVIN F. JURSINSKI - GUEST OPINION • NEWS-PRESS.COM • APRIL 1, 2010

Faced with ever growing residential foreclosures and continuing decline in residential home values, the Obama administration announced that an additional $14 Billion would be spent on its Making Home Affordable Program ("HAMP").

This is in addition to the $75 Billion that has already been allocated since HAMP went into effect in February 2009, bringing the total to a staggering $89 billion. Unfortunately for all of us, HAMP was poorly designed and has resulted in a massive entitlement program that has done nothing more than provide a three to six month reduced payment on defaulted mortgages, while failing to achieve a solution to the underlying real estate problem. HAMP is another government "hand out," not a "hand up" and is simply "Mortgage Welfare."

The Treasury Department in its initial press release of March 4, 2009, on HAMP indicated that it: ".. will offer assistance to as many as 7 to 9 million homeowners…".

Then the Obama administration walked that projection back to 3 million to 4 million homeowners, and now, after throwing $75 billion at this problem, the Treasury Department has retreated from that goal.

As reported on March 25, 2010 by the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"), the Obama Administration concedes that "…its 3 to 4 million homeowner goal is not tied to how many homeowners actually receive sustainable relief and avoid foreclosures, but rather that 3 to 4 million homeowners will receive OFFERS for a trial modification."

In layman's terms: $89 billion taxpayer dollars are earmarked with the goal only to process applications for 3 million to 4 million mortgages modifications.

It gets worse. According to SIGTARP, after a full year of the HAMP program, only 168,708 mortgage modifications have been completed out of less than 1 million applications, an abysmal failure.

The Treasury Department states that it is merely "disappointed" and results are "below expectations," ultimate understatements.

After a full year, HAMP has drastically under performed, achieving less than 5 percent of its stated goal.

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Even more abysmal is the Treasury Department's own forecast that approximately 40 percent of the 168,708 modifications are expected to re-default and end up back in foreclosure, leaving only about 100,000 successful mortgage modifications nationally.

SIGTARP points out that negative equity is the "most important predictor of default," and half of the foreclosures have resulted from negative equity loans.

A recent USA Today story identified that "strategic defaults" occur when a borrower realizes that a home with negative equity will require years of payments before the value equals the mortgage balance (citing Cape Coral/Ft Myers), causing many underwater homeowners to strategically default and "walk away."

Inexplicably, this critical underwriting factor has been disregarded by HAMP, since HAMP fails to require loan servicers to address negative equity in a home.

In addition to criticism from government watchdog agencies and real estate experts, the HAMP program debacle transcends bipartisanship in Congress, receiving scathing criticism from both parties. "It has failed and it has failed miserably," Jackie Speier, (D-Calif.).

Republican Congressman Darrel Issa states that: "The evidence is clear: HAMP has failed." Yet, the administration has committed to spend $14 billion more taxpayer dollars on this ineffective entitlement program.

Rather than perpetuate Mortgage Welfare via HAMP, President Obama should learn from former President Clinton who, in 1996, worked with congressional Republicans and passed historic welfare reform that reduced the role of the federal government.

That bipartisan reduction in wasteful spending, together with lower taxes, saw the unemployment rate drop by 30 percent.

HAMP requires an immediate redesign. My suggestions are:

1. Implement an aggressive program identifying "at-risk" mortgages and stabilize the real estate economy by principal reduction and reduced interest rates to incentivize at-risk borrowers to

make mortgage payments, rather than subsidizing payments on mortgages to nowhere. Principal reduction efforts will reduce the re-default rate by removing the negative equity stigma.

2. Require long term hold and recapture provisions so that when the property values stabilize and begin to increase, there will be reimbursement to the U.S. taxpayer for subsidizing principal reductions.

3. Take immediate, aggressive steps in the five worst hit states: Florida, California, Nevada, Arizona and Michigan, to implement enhanced principal reduction efforts as a way to stabilize those real estate economies. (A small pilot program for these states has been announced, but a bolder initiative is needed)

4. Implement a mandatory foreclosure mediation program. This enables borrowers and lenders to immediately and efficiently resolve their disputes, eliminate litigation expenses and reduce foreclosures that clog our court system.

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— Kevin F. Jursinski is a Florida board certified real estate attorney. His office is in Fort Myers.