Why The Mortgage & Banking Industry's Latest Attempt To Fix The Housing Debacle Will Fail

It appears that President Bush is a believer in the old saying: "If at first you don't succeed, try, try again."

Since HopeNow, his first pass at calming the imploding housing market last October–failed miserably–the president has done what anyone would do when they get knocked down. He dusted himself, and HopeNow off, rallied his collective brain trust from Washington and the mortgage industry, and announced the latest "here's how we're going to slow the hemorrhaging housing world" scheme-du-jour.

After examining "Project Lifeline" the Bush Administration's newest initiative designed to slow down and (hopefully) reduce the 2 million foreclosures projected through the end of this year, I'm wondering out loud why they didn't simply call it HopeNow/Part II? At least they could have saved time and money on designing a new logo and allocating new phone numbers for what appears to be an "upgraded" version of an earlier (failed) voluntary plan.

I think last October's failure should've been more accurately called "HopelessNow," and this newest "fix" should be, in the spirit of "truth in advertising" more accurately labeled "Project Lifeless." Here's what they're offering and why it won't work:

Our nation's "Big 6" mortgage servicers (Countrywide, Wells Fargo, CitiMortgage, Chase Home Finance, Washington Mutual and Bank of America) are founding members of the "Project Lifeline" coalition–and have agreed to send letters to drowning homeowners who are 90+ days past due–with an offer to delay a foreclosure sale by 30 days if they:

$ Call within 10 days of receiving 'the letter' and tell them they want to avoid foreclosure and stay in the house and

$ Agree to financial counseling if deemed necessary by the lender, as well as agree to provide detailed financial information about their current situation.

If distressed homeowners jump through these hoops, then–at the (sole) option of the mortgage servicer–both sides would have a few weeks to reach an agreement that would delay a foreclosure. The Project Lifeline-inspired options may include:

a. A workout in which the borrower pays extra each month to catch-up on the late payments over time;

b. A modification in which the rate or terms of the loan are changed;

c. In rare cases, a modification could even include some debt forgiveness if the borrower owes more than the house is worth.

Here's why I predict Project Lifeline will fail:

1. Informed debtors must be extremely wary of engaging in financial counseling and making any financial disclosures: Since credit counselors are almost always compensated by the creditors, why would a debtor want to spill their guts to someone representing a potential (legal) adversary? The credit counseling community has been confusing consumers with their "we're a non-profit organization" pitch for years, and the bottom line warning I have for debtors in distress is simple: Remember that the credit counselors' end game is to do what's in the best interest of their employers–the mortgage and credit card companies–and not necessarily in the best interest of the homeowner/debtor.

2. Unless the mortgage servicers are willing to engage in loan modification and recasting discussions, then why waste our time? Tacking on late payments to the end of a loan or freezing interest rates at low or introductory levels for up to 5 years is like rearranging deck chairs on the Titanic. Someone needs to start taking FDIC chairwoman Sheila Bair's advice seriously, and get the mortgage industry to attack these loans in the only way that's going to make a real, long-term difference: Forgiveness of debt–combined with a lower, fixed interested rate and long amortization schedule–is the only way this mess is going to be resolved.

3. Since there's an excellent chance that the distressed homeowner's rights were violated in the creation of their mortgage nightmare, I suspect any re-structure agreement will quietly waive homeowners' rights to pursue legal claims against everyone in the mortgage food chain: Brokers, originators, appraisers, title companies and loan servicers are hoping that hundreds of billions of dollars in potential legal liabilities disappear once under-informed and desperate debtors take the bait to restructure and sign-away their rights. I predict that as this mess continues to unravel, a pattern of Predatory Lending practices that I believe has dominated the subprime world will finally see the light of day. The remedies for violating borrowers' rights protected by two potent but under-utilized federal laws–The Fair Housing and Truth-in-Lending Acts–are good news for drowning homeowners, but bad news for anyone remotely involved in the mortgage lending process since the last days of the 20th century.

While I recognize that the mainstream will not welcome my advice with open arms and champagne toasts, they'd better wise up sooner-rather-than-later: An aggressive strategy, in unison with federal guarantees designed to protect investors holding drastically devalued, subprime-dominated mortgage securities–as well as the mortgage servicers of the world who will be forced to (eventually) restructure these deals–is the only true short and long term solution.

Fed chairman Ben Bernanke is under attack for "not doing enough, soon enough," but will his detractors actually listen to such radical advice? It may be painful in the short-term and may even smell like a government bailout (which it is), but unless and until someone has the guts to take such aggressive measures, our government will repeat their missteps connected with the S&L mess. Instead of acting quickly, lawmakers wanting to avoid a bailout ended up doing just that, and at a much higher price. They delayed the inevitable four years and ended up spending ten times more than if they'd taken the same action just 48 months earlier.

The mortgage heavyweights want to be perceived as angels with this latest plan, but their halos won't have to fall far to become nooses around the necks of all Americans, whether they're homeowners or not.

About the Author

Benjamin Dover is an investigative journalist based in Dallas and the creator of a new mortgage crisis-focused, solution-driven website, www.NowWhatDoYouDo.com.

Investigative journalist, radio talk show host, best-selling author, newspaper columnist and television correspondent Benjamin Dover is on a mission to teach Americans some real life survival skills they simply can't learn anywhere else. He's been opening the eyes of naive consumers since 1992, covering the hottest issues of the day and a diverse array of everyday, common-sense topics with his colorful, no-nonsense brand of common sense and scorched-earth street smarts.

Ben's written two best-selling books. Life After Debt: The Blueprint for Surviving In America's Credit Society and Back Off! The Definitive Guide To Stopping Collection Agency Harassment. His popular column, Ask Ben , appeared weekly in The Dallas Morning News from 1998 – 2004 and his expert commentary, advice, tips and strategies have been featured in some of the nation's leading newspapers and magazines for almost two decades.