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## Mortgage settlement could fall short for borrowers

By **Emily Heffter**  
*Times consumer-affairs Reporter*

State leaders say a settlement with Ameriquest Mortgage is an efficient solution that guarantees thousands of Washington homeowners will get some restitution money.

But several local attorneys and a former senior assistant attorney general say the terms of the settlement in the predatory-lending case mean consumers may get much less than they deserve.

The state agreed to require consumers who take the money to sign a release promising not to sue Ameriquest for any other damages.

Washington and six other states investigated whether the company used unfair tactics to inflate home loans beyond what consumers could afford.

"What I think is unfair is that in structuring the settlement this way, they've precluded consumers from pursuing anything on their own," said Owen Clarke Jr., who retired in 2003 from a 17-year career as the chief of the attorney general's Spokane office. "If it's a trend, it's an ominous one, in my opinion."

Attorney General Rob McKenna said Friday that it's not a trend. The release was necessary to settle such a large case, he said.

"It seems fair that if someone receives the benefit of the settlement and receives money from it, they should be bound by the settlement," McKenna said.

The release is the most controversial aspect of the \$325 million settlement involving 49 states that was announced last week. About 13,500 Washington residents who borrowed money between 1999 and 2005 will split \$6.5 million in restitution, some receiving as little as



[enlarge](#) ALAN BERNER / THE SEATTLE TIMES

Kelly Post, an Ameriquest client, sits with her dog, Otis. She has filed for bankruptcy.

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### Settlement information

Customers who are eligible for restitution will be contacted by mail within a year. For more information about the settlement, visit [www.atg.wa.gov](http://www.atg.wa.gov) and [www.dfi.wa.gov](http://www.dfi.wa.gov).

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"Every state in which we operate agreed that this is a good resolution for consumers," Ameriquest spokesman Christopher Orlando said in an e-mailed response. "It would be irresponsible of plaintiffs' attorneys to suggest that the time, expense and uncertainty of joining an uncertified class action or pursuing other legal avenues is a better option for most consumers."

Those affected don't have to do anything to be offered the settlement.

Within a year, someone from the state is supposed to contract anyone who refinanced with Ameriquest from 1999 to 2005.

The states' investigation found that Ameriquest overvalued homes in appraisals and made up employment and income information to allow more people to qualify for loans.

That's what Kelly Post of Auburn said happened to her. In May 2003, when she went to refinance, her husband was dying of Lou Gehrig's disease.

Post said the Ameriquest lender pressured her to lie about her income and say she made \$3,500 a month as a home caregiver. She agreed, even though the family made only about \$1,100 a month from welfare and federal disability.

Post used some of the cash in the \$139,000 refinancing loan to take her husband and two children on a final family vacation. They returned home to payments that were higher than promised, she said, and quickly fell behind.

"The guy seemed so nice and stuff when we did the refinance, and then it seemed like he didn't want to work with me at all afterwards," she said.

Since her husband died 1 ½ years ago, she and her children have gotten by on \$540 a month. Her home is in foreclosure, but she filed for bankruptcy this month to stop the process.

She has sold "everything that's not nailed down." A chair, a couch and a coffee table are nearly all that remain in her living room.

She can't afford a lawyer, she said, and doesn't know whether she'll take the settlement.

"My husband always handled all that stuff," she said.

Wenatchee class-action attorney Bob Parlette said he worries that consumers like Post won't understand their options.

"What is terribly unfair is to see these people sort of get tricked into taking the [settlement] money, thinking it's something good, and then finding out later that ... it's pennies on the dollar," Parlette said.

He represented several victims in a case against Household International in 2002. In a similar settlement with Household, the Attorney General's Office agreed to require consumers to sign a release to collect part of the \$20.6 million in restitution for Washington residents. Not everyone took the settlement.

Clarke remembered a victim in the Household case who refused the \$2,500

**For a free copy** of the state Department of Financial Institutions' Guide to Home Loans, a CD-ROM explaining the home-loan process and providing tips to avoid predatory lending, visit [www.dfi.wa.gov/consumers/home\\_loans](http://www.dfi.wa.gov/consumers/home_loans) or call 877-746-4334.

**Consumers may call** the Attorney General's Office Consumer Protection Division at 800-551-4636 for help understanding the terms of the settlement.

*Source: Attorney General's Office*

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from the state settlement. He went to the Gonzaga University law clinic, sued and ended up getting much more. The details are confidential.

David Huey, the assistant attorney general who negotiated the Ameriquest agreement, said the terms of the settlement are not ideal.

"I'm proud of it, but I would be the last guy to say it's perfect, and I certainly have a certain level of frustration with what we've come up with," Huey said.

The release, he said, was "a deal-breaker": Ameriquest would not have settled without it.

Huey said it's better to settle and make sure the company pays some damages than to fight a long and expensive court battle and risk Ameriquest paying nothing.

Homeowners who have a good case "may be far better off" suing separately, he said. If they don't have a good case, he added, the settlement is better than nothing.

And, McKenna pointed out, "Proving actual damages in this kind of case is very difficult."

Seattle attorney Melissa Huelsman has several clients who are suing Ameriquest. She won't recommend that they take the state's settlement.

"There's very serious problems with the AGs giving away essentially the whole farm in return for what we all agree is a very small sum of money," Huelsman said.

No one knows exactly how much money each consumer will get. Most who got their loans before April 2003 will be entitled to at least \$600 from the settlement.

The settlement does nothing to get borrowers out of the loan terms they agreed to. It does, however, allow Ameriquest customers to use evidence of predatory lending to try to stop a foreclosure.

There's also the question of whether consumers could understand the legal jargon in the 563-word release.

Huey called the release "a disaster in terms of understanding."

"I was the guy that was pushing for plain English and understandable terms," he said. "I certainly wasn't personally pleased with the wording of the release."

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