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PRESS RELEASE

Attorney General Frosh Joins Bipartisan Coalition Fighting to Protect Nearly One Million Homeowners from Unlawful Fees

Mortgage Servicing Class Action Settlement Violates Most States' Laws and Provides Windfall for Mortgage Servicer Instead of Homeowners

BALTIMORE, MD (January 29, 2021) – Maryland Attorney General Brian E. Frosh today joined a bipartisan coalition of 33 attorneys general in opposing a proposed class action settlement that attempts to permit a mortgage servicer to profit from illegal payment processing fees charged to homeowners making normal mortgage payments online or by phone. The coalition filed a motion opposing the proposed settlement in *Morris et al. v. PHH Mortgage Corporation, et al.*, where mortgage servicer PHH Mortgage Corporation and its predecessor corporation, Ocwen Loan Servicing, LLC (collectively PHH). The proposed settlement seeks to permit the servicer to continue to profit from illegal processing fees the company has been charging to nearly one million homeowners nationwide, including more than 20,000 homeowners residing in Maryland.

"This proposed settlement is a gift to PHH Mortgage; the mortgage company would reap rewards for its illegal activity while homeowners continue to pay the price," said Attorney General Frosh.

For years, PHH charged nearly one million homeowners an illegal fee – ranging from $7.50 to $17.50 – each time a homeowner made a monthly mortgage payment online or by phone. Nowhere in these homeowners' mortgage contracts is there authorization for such fees and PHH does not charge "processing" fees for other customers, including those who pay by check or those who set up automatic debit payments.

Under the terms of the proposed settlement, PHH would not only be permitted to continue to charge these illegal fees, but would be able to actually increase fees for the remaining life of the loan. For many homeowners, this could be another 20 to 30 years. In exchange, homeowners would only receive a one-time monetary payment. Further, the proposed settlement seeks to authorize these unlawful fees through an unwritten, mass amendment of the mortgages, which is a violation of most states' statutes of frauds – a centuries old legal doctrine that requires contracts related to property to be in writing and signed by the parties. This unwritten, mass amendment also seeks to permit PHH to evade many states' recording requirements for modified mortgages.

Additionally, the coalition objects to the inadequacy of the monetary relief, as the proposed settlement would only return a fraction of the fees consumer paid and is designed to ensure that a portion of the monetary relief intended for homeowners will actually end up in PHH's hands. Homeowners whose loans are still serviced by PHH will not receive any direct monetary payments for prior unlawful payments received by PHH. Instead, these homeowners will receive a credit to their account that will only be applied to the unpaid principal balance of the mortgage after any late fees are first paid. Moreover, any settlement funds not distributed to the class member homeowners will be returned to PHH, ensuring the settlement further benefits PHH and not impacted class members.

Joining Maryland in filing today's amicus request is a bipartisan coalition of attorneys general from Alaska, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and West Virginia.