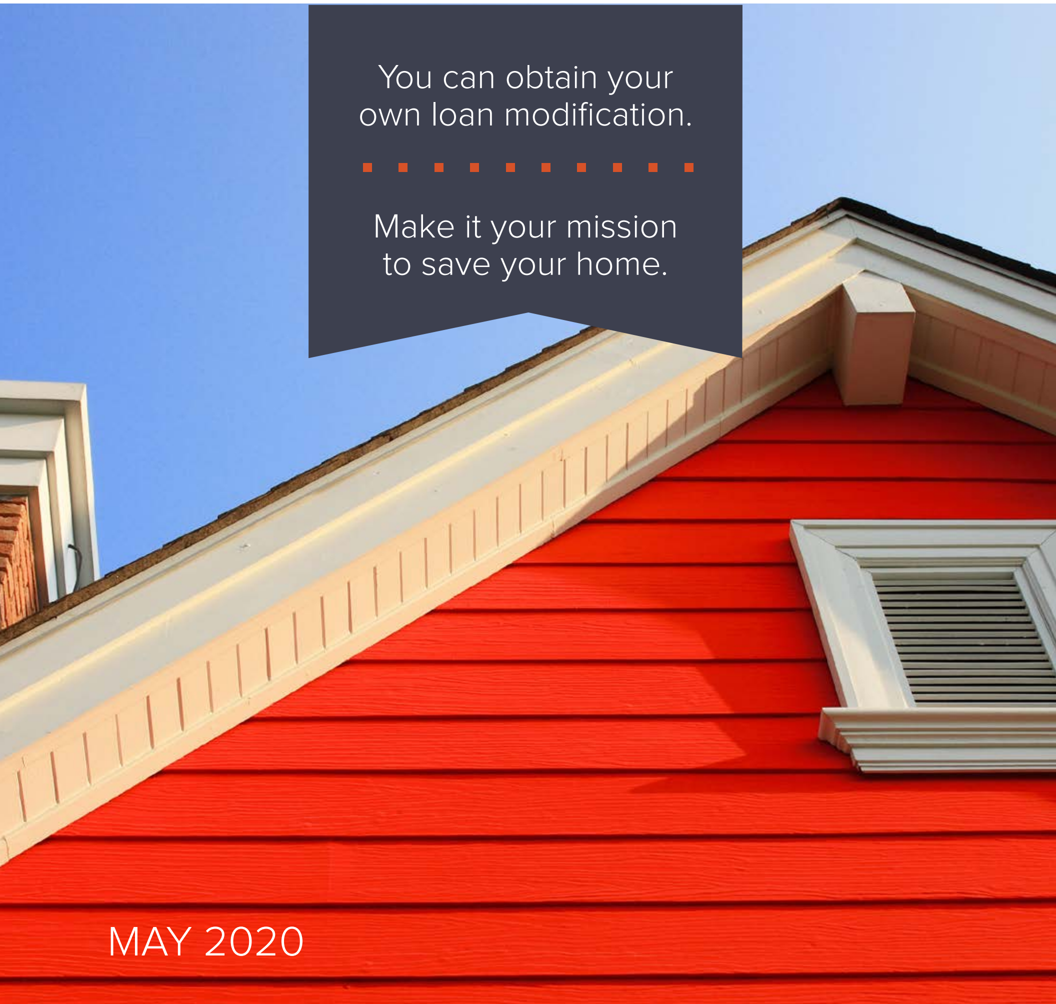
CALIFORNIA DRE

LOAN MODIFICATION

SELF-HELP GUIDE



You can obtain your own loan modification.

Make it your mission to save your home.

MAY 2020

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"These new loan terms are meant to provide you with an opportunity to stay in your home while making affordable payments for the life of the loan."

I. WHAT IS A LOAN MODIFICATION AND DO I QUALIFY?

Description of a Loan Modification

A loan modification is a restructuring of your current loan repayment period (term), interest rate, or other provision of your home loan. Occasionally, some of the principal balance of your existing loan may be forgiven and/or your loan term could be extended. You may have also heard the term "forbearance plan," which is a restructuring of or postponement of payments. New loan terms under a loan modification or forbearance plan are meant to provide you with an opportunity to stay in your home while making affordable payments for the life of the loan. They are tools to help you avoid foreclosure if you are willing to make payments and have the income to sustain affordable payments. For purposes of this guide, a forbearance plan and a loan modification are synonymous.

Do I Qualify for a Loan Modification?

- You must be able to substantiate consistent and sufficient income to cover your new payments. If you do not have consistent income to be able to make the new payment under the loan modification, your request will likely be denied. A new proposed monthly payment on a loan modification (including your property taxes and insurance) should be about 31% or less of your monthly income.
- You cannot currently be in a bankruptcy proceeding (unless otherwise advised by your bankruptcy attorney).
- If the home is not your primary residence, your loan modification request will likely be denied.

Alternatives

- Request a **forbearance plan** from your mortgage lender. This program is a formal, *temporary*, written agreement with your mortgage lender designed to temporarily stop foreclosure proceedings. It is not a complete loan modification and is usually used when your inability to make payments is temporary, such as when you sustain a major illness or injury.

- Consider increasing your income by taking on a **second job.**

- Consult with a **bankruptcy** attorney to understand all of your options.

- Speak to a local real estate agent regarding a **short sale**. In a short sale, an arrangement is negotiated with your mortgage lender to sell your home for less than you owe on the loan. Understand that a short sale can have negative consequences. Other than selling your home and satisfying the loan, there are no benefits to your credit for obtaining a short sale. When you attempt to purchase another home after obtaining a short sale, the mortgage underwriter for the new loan will likely treat the short sale the same as a foreclosure. Multiple mortgages on your property could prevent a short sale.

- A **deed in lieu of foreclosure** can be an option in the event you have decided you can no longer afford your home and do not want to go through marketing efforts or foreclosure. With a deed in lieu of foreclosure, you ask your lender if they will take title to your property, subject to existing claims or liens, instead of foreclosing. Note that the lender may decide a foreclosure is a better option for them and reject your offer to issue a deed in lieu of foreclosure.

Expectations

- While you can obtain your own loan modification, it is usually time-consuming and tedious. You must be persistent with your mortgage lender. When possible, communication with your lender should be in writing. If you talk on the phone to a representative of your lender, be sure to document the name of the person you spoke with, the date and time of your conversation, the phone number, and all information you received.

- A successful loan modification could take several months, so be sure to return all requested information and documentation to your mortgage lender in a timely manner. Maintain a file of all documents received and all delivery receipts.

- Your lender may request that you have your home appraised by a licensed real estate appraiser or evaluated by a licensed real estate broker.

- Once you receive the final loan modification paperwork, you can also expect that the initial loan modification will be for a trial period of usually a few months. After you have made all scheduled payments on time, your trial period will end and your loan modification will become permanent. If you were considering selling your home, you would have to wait for your loan modification to become permanent. Have a real estate attorney or real estate broker review the terms of your loan modification prior to listing your home for sale.

II. LAWS SURROUNDING LOAN MODIFICATIONS

- In October 2009, Governor Arnold Schwarzenegger signed Senate Bill 94 (Calderon) which prohibits any person, including real estate agents, mortgage brokers, and lawyers, from demanding, charging, or collecting an advance fee for loan modification services prior to the completion of those services. If you are approached by any person requiring upfront fees for loan modification services, do not pay them.

- Effective January 31, 2011, the Federal Trade Commission issued a rule with nationwide effect that bans providers of Mortgage Assistance Relief Services ("MARS"), which includes residential mortgage foreclosure rescue, loan modification, short sale, and deed-in-lieu of foreclosure services from requesting or collecting fees or other consideration from a homeowner until the consumer has executed a written agreement with the loan holder or servicer incorporating the offer of mortgage relief the provider obtained from the loan holder or servicer. The rule also mandates that providers of MARS disclose to consumers the total cost of the services, that they have no connection to any government program or agency, and that homeowners are free to reject any offer from the lender or servicer with no requirement to pay a fee to the MARS provider. The rule also bars providers of MARS from distributing false or misleading information, and from advising consumers to stop communicating with their home loan lenders or servicers.

- Effective July 2013, the Homeowners Bill of Rights ("HBOR") was enacted to give borrowers and homeowners facing foreclosures various statutory protections. For instance, the law prevents "dual-tracking," which occurs when a mortgage lender or servicer proceeds with the foreclosure process at the same time that they consider a homeowner's loan modification application. The HBOR also requires servicers to assign an applicant with a single point of contact to utilize throughout the application process. If a loan modification is denied, the HBOR requires the servicer to identify the reasons for the denial in writing, and give the applicant a chance to appeal the denial before proceeding with the foreclosure. If you have been denied a loan modification, consult an attorney to ensure you were afforded all of the protections under the HBOR.

III. HOMEOWNER BEWARE

- Most mortgage lenders collect your payments and forward them to the investor that actually owns your loan or note. This process is known as servicing the loan. Ask if your mortgage lender is only a servicer, and, if so, ask them for contact information for the investor that actually owns your loan or note. Generally, the note owner must approve a loan modification that is negotiated between you and the servicer.

- Do **NOT** stop making your mortgage payments payments in order to “qualify” for a loan modification. This can severely damage your credit and trigger the start of the foreclosure process.

- If you have a first and second mortgage (or even a third), you may have different mortgage lenders. You must contact all of your mortgage lenders before entering into a loan modification. When you have multiple mortgages on your home, working out a loan modification with one mortgage lender does not bar the other mortgage lender(s) from proceeding with a foreclosure.

- A short sale does not necessarily look better on your credit report than a foreclosure. It also may not free you from the balance you owe, leaving you with what is called a deficiency balance. Although recent changes to the tax codes generally prevent a short sale from being considered a taxable event, you should consult a tax professional about the possible tax implications of a short sale.

- **IF YOU ARE APPROACHED BY ANY PERSON REQUIRING UPFRONT FEES FOR LOAN MODIFICATION OR SHORT SALE SERVICES, DO NOT PAY THEM AND CONTACT THE DEPARTMENT OF REAL ESTATE AT (877) 373-4542.**

- Understand that your lender may not agree to a loan modification. You are requesting a change to the loan terms to which you and the lender already agreed. There is no obligation for the lender to approve your request for any change, and the loan modification request may be denied.

IV. PREPARATION BEFORE CALLING YOUR MORTGAGE LENDER

STEP 1:

Before you contact your mortgage lender, you should gather all of the necessary documentation found on the "Items to Deliver to Your Mortgage Lender" checklist.

STEP 2:

You need to determine the estimated current market value of your home. You can do this different ways, including:

1. Search your property address on a reliable property valuation website.
2. Contact a local real estate broker.
3. Contact a local appraiser.

You should note that some of the methods above may require payment. You will need to do research to determine whether any of these services are offered for free in your area.

STEP 3:

Once you have completed steps 1 and 2 above, you are now prepared to contact your mortgage lender and speak to them intelligently with all of the information in front of you. Call the customer service phone number listed on your mortgage statement and ask for the loss mitigation department, the loan modification department, or the foreclosure prevention department (which all refer to the same department). Follow the instructions of the representative that you speak to and be sure to take notes (write everything down) and ask questions.

Homeowner Name(s): ______________________________

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Loan Number: ______________________________

Date: ______________________________

Use the following checklist as a guide when gathering the necessary documentation. Your mortgage lender will require you to provide this and perhaps other information when requesting a loan modification. You may want to include a copy of this checklist with your documents. Mark each page of each copy with your identifying information. Be sure to send only copies and not the original documents.

1. ☐ Current mortgage loan statement.

2. Original mortgage loan documents including:

☐ NOTE

☐ DEED OF TRUST

Record the following information here:

Term of your loan (30 years, 15 years, etc.): ______________________________

Current interest rate: ______________________________

Is the rate fixed or adjustable? ______________________________

Are you making interest only payments? ______________________________

Will there be a balloon payment due? Yes ☐ No ☐

If yes, when? ______________________________

How much? ______________________________

Is there a prepayment penalty on the loan? Yes ☐ No ☐

If yes, how much? ______________________________

(continued on page 8)

(check list continued from page 7)

3. Information you have obtained regarding the current market value of your home. ____

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4. ☐ Current paystubs covering the past two months for all homeowners.

5. ☐ All W-2s and/or 1099 forms for the most recent tax year for all homeowners.

6. ☐ All pages of your income tax returns for the most recent tax year for all homeowners.

7. ☐ At least two months' proof of any other forms of income such as: benefits or awards letters, retirement or pension benefit statements, annuity statements, child support and/or alimony received (include court order and proof of receipt of payment), any other forms of income.

8. ☐ All pages of your most recent bank statements covering the past two months.

9. ☐ Hardship Letter – A personal statement written, signed, and dated by all homeowners describing the hardship that serves as the basis for the loan modification you are requesting.

V. WHEN YOU RECEIVE YOUR LOAN MODIFICATION PAPERWORK

Be sure to:

1. Understand all of the terms including the type and terms of your loan, your new interest rate, and payment.
2. Review and confirm that all of your personal information is correct.
3. Contact your mortgage lender immediately if there is an error.
4. Sign the documents **exactly** as your name appears on the paperwork.
5. Have your signature notarized (only if required by your mortgage lender).
6. Keep copies of **all** the documents before you send them back.

VI. OTHER RESOURCES

If you have other questions or need further assistance with your loan modification process, contact the following non-profit agencies:

- **Homeownership Preservation Foundation (HPF)**
  3033 Excelsior Boulevard, Suite 500
  Minneapolis, MN 55416
  www.995hope.org
  (888) 995-4673
  (612) 230-4020

- **HUD Counseling**
  www.hud.gov
  (800) 569-4287

For more consumer publications, visit the California Department of Real Estate at: www.dre.ca.gov.

VIII. GLOSSARY OF TERMS

Advance Fees – any money that is claimed, demanded, charged, received, or collected up front in promise of services to be done before those services have been completed

Appraisal – a written evaluation of the current market value of your home completed by an appraiser

Balance of Your Loan Forgiven – a portion of the loan balance is erased and that part of the debt against your home is erased

Balloon Payment – an oversized or lump sum payment due at the end of the mortgage term

Current Market Value – the amount of money your home would bring if you sold it today in the current, local market; the highest amount any buyer is currently willing to pay for your home today

Deficiency Balance – the amount left over from the amount the money an investor or mortgage lender receives from the sale of their foreclosed property that is insufficient to pay off the full loan balance

Foreclosure – A process by which an investor or mortgage lender sells your home at a sale auction in order to pay off your loan balance and reclaim their collateral (your home)

Mortgage Underwriter – a person working for an investor or mortgage lender that reviews your mortgage loan application or loan modification request, along with all of the supporting documentation you provided, to determine if you qualify for the loan or modification, and evaluate the risk to the investor or mortgage lender

Prepayment Penalty – a fee or charge that is assessed to the borrower if they pay their mortgage loan balance off early, before the end of the term specified in the penalty

Term of Loan – the length of time set to pay off a loan; usually mortgages are set for 15-year, 30-year, or 40-year terms

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Official Publication of the California Department of Real Estate

CALIFORNIA DEPARTMENT OF REAL ESTATE
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www.dre.ca.gov

REVISED: MAY 2020

PDE_20-111