



California Department of Real Estate
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Consumer Alert

FRAUD WARNINGS FOR CALIFORNIA HOMEOWNERS IN FINANCIAL DISTRESS

As homeowners begin to feel the financial impacts from the efforts to stop the spread of the coronavirus (COVID-19), loan modification and foreclosure rescue scams may start again to surface targeting vulnerable consumers.

Whether they call themselves foreclosure prevention consultants, debt settlement specialists, loan modification specialists, mortgage modification consultants, or some other official or important sounding title, there are dishonest individuals and companies that may emerge because of this unprecedented environment. Most are unlicensed, many use lofty sounding names, and some falsely claim to be non-profits, attorney backed, or affiliated with federal and state governments.

While there are people and companies in the business of modifying loans or helping prevent foreclosure that are licensed, legitimate, and qualified, the Department of Real Estate (DRE) advises all homeowners that you must be cautious.

WHAT IS A LOAN MODIFICATION OR FORBEARANCE

Because of the current economic situation, you may not be able to afford your mortgage payments, or you may be facing foreclosure. An option that may be available to you is a Loan Modification or Forbearance.

A loan modification or forbearance is where you and your lender, or the loan “servicer” on behalf of the lender, agree to modify one or more of the terms of your home loan. The terms could be a lower interest rate, extension of the length of time to pay back the loan, reducing or postponing some of your payments, or any other change of loan terms.

The goal of a successful loan modification or forbearance is to help you keep your home and give you a sustainable adjustment to your current home loan that works for your financial situation.

However, loan modifications are not possible for every homeowner. Many lenders have their own guidelines for loan modifications or forbearances. If your financial situation meets the guidelines, a loan modification is possible by documenting your financial hardship. If you do not meet the lender’s guidelines, a loan modification may not be possible.

This is where the scammers come in. They often falsely claim that they can guarantee a loan modification or forbearance or stop your foreclosure. They make bold statements about their successes, publicize their supposed expertise, ask for money up front, and then

take your money and leave you in worse shape than before. Remember, if the representations sounds too good to be true, then they probably are not true.

HOW TO PROTECT YOURSELF FROM BECOMING A VICTIM

A. Do It Yourself for Free – Contact your lender directly and request a loan modification or forbearance that works for you and your lender. Take detailed notes about your calls, who you speak with, what was said, what you need to do, and what offers are discussed. You can do this yourself, without help from anyone and without paying someone a fee.

B. Consult a Free Counselor – If you cannot negotiate a Loan Modification yourself or if you do not want to, the **U.S. Department of Housing and Urban Development (HUD)** offers free housing counseling through HUD approved, non-profit agencies in California. Go to HUD's web site at www.hud.gov to find counselors.

C. Work with a legitimate, licensed, and qualified person or company – If you cannot negotiate a loan modification by yourself and decide not to use the free counselors provided through HUD, you could hire a representative to negotiate for you. However, beware – you need to find someone who is legitimate, licensed, and qualified by experience and training. Remember that it is illegal for anyone (including DRE licensed persons and licensed attorneys) to demand, charge, or collect any advance, up-front, or retainer fees, or any other type of pre-payment compensation, for residential loan modification or forbearance services.

1. California licensed real estate brokers with mortgage loan originator license endorsements can perform loan modification work, and licensed real estate salespersons with the mortgage loan originator license endorsement can do such work under the supervision of their responsible broker.

You can go to DRE's website at www.dre.ca.gov to make sure the person is licensed, and to look for any discipline.

2. California licensed attorneys can also perform loan modification work, but only when the attorneys render those loan modification services in the course and scope of their representation.

You can check out licensed attorneys by going to California State Bar's website at www.calbar.ca.gov for bar membership records and to look for any discipline. It is illegal in California for attorneys to demand, charge or collect any advance or retainer fees or any other type of pre-payment compensation for residential loan modification or forbearance services.

In addition to looking at the license records, contact resources like the Better Business Bureau at www.bbb.org to see if they have received any complaints about the person or company.

Ask the loan modification "specialist" (whether a DRE licensee or licensed attorney) questions before you sign anything. Ask about their financial, mortgage, and real estate

experience, how they renegotiate home loans, how they are actively licensed, whether they have ever been disciplined, how they got their experience, what evidence they have of successful dealings with your lender, how they will be compensated, and their process for successfully negotiating a long-term, affordable, and sustainable modification for you.

D. Signs of Fraud and Other Red Flags

- ✓ Unlicensed people or companies.
- ✓ Demand for any type of payment up front (advance fee payment). Remember, once the scammers have your money, it will likely vanish.
- ✓ Promises or guarantees of success, such as “We Can Save Your Home,” “Free Consultation,” or “Money Back Guarantee.” No such guarantees are possible.
- ✓ Claims that a company is attorney-backed -- especially where no attorney or firm is identified. They may simply be using the name of an attorney for show.
- ✓ A request that you grant a “power of attorney” to the loan modifier. The scammer may use the power of attorney to sell the home right out from under you.
- ✓ A request that you transfer your title to your home to the loan modifier or a third party. This is a scam where they will strip all of the remaining equity in your home.
- ✓ Promises that you can repair your credit history by paying rent to the loan modifier or some third party.
- ✓ Lease/rent-back scams, where you are told to transfer title to a third party, rent the home from that party, and then buy it back later.
- ✓ Instructions to pay someone or some company other than your home loan lender or servicer. Always pay your lender/servicer, and no one else.
- ✓ Claims that a loan modification company will file a bankruptcy or other frivolous case for you to “force” a lender to negotiate a loan modification.
- ✓ Assertions by the so-called loan modifier that you should just sign documents that they have filled out without reviewing them first, or just sign blank documents. Carefully read and understand all of the documents you sign.
- ✓ Instructions from a loan modification provider that you should not contact your home loan lender or servicer, a lawyer, an accountant, or a non-profit housing counselor.
- ✓ Being advised to miss payments to improve your chances of getting a loan modification. Following this advice put you on the path to foreclosure.
- ✓ High-pressure sales tactics or warnings that “you must act today”.

- ✓ Claims that the company is government-backed or has access to special programs.

It is impossible to list all of the red flags that might suggest fraud, since the scammers and con artists adapt and evolve. Please be alert, be cautious, be skeptical, and do your own homework using reliable and legitimate sources.

WHO YOU CONTACT IF YOU HAVE BEEN SCAMMED

1. If a DRE licensed person or an unlicensed person practicing real estate is involved, DRE at www.dre.ca.gov
2. If an attorney or unlicensed person practicing law is involved, the California State Bar at www.calbar.ca.gov
3. The California Attorney General at <https://oag.ca.gov/contact/consumer-complaint-against-business-or-company>
4. Your local District Attorney, Sheriff, or police and local prosecutor
5. The Federal Trade Commission at www.ftc.gov
6. Federal Bureau of Investigation (FBI) at www.fbi.gov
7. Your local Small Claims Court, where you may be able to resolve disputes quickly and inexpensively by a judge

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