



NEWS RELEASE

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Advance Fees Prohibited for Home Loan Modifications by New State Law

On October 19, 2009, California Governor Arnold Schwarzenegger held a press conference to highlight the signing of legislation that will prevent homeowners from being negatively impacted by fraudulent mortgage practices. Real Estate Commissioner Jeff Davi was one of the officials present to support these laws, including Senate Bill 94, which became effective immediately. Under this new California law, no person or firm offering residential loan modification assistance can collect upfront fees from borrowers to perform these services. For more information on Governor's press conference visit <http://www.gov.ca.gov/speech/13658/>.

"Given the widespread abuses involving the collection of advance fees in connection with loan modifications, this bill was a necessity," stated Real Estate Commissioner Jeff Davi. "This urgency measure will go a long way to provide needed consumer protection to homeowners who have been negatively impacted by the economic downturn and are facing possible foreclosure," said Commissioner Davi.

The California Department of Real Estate is currently investigating over 1,300 loan modification complaints and, in just the past 12 months, has issued nearly 400 desist and refrain orders and accusations against individual respondents for illegally collecting advance fees. Most of the cases involve a scammer who has collected an advance fee in exchange for a promise that the homeowner will receive a sustainable loan modification; yet once the fee was paid little or nothing was done to get the borrower's loan modified. A list of persons and companies that the Department has taken action against can be found at http://www.dre.ca.gov/cons_drs.asp.

Senate Bill 94 goes right to the heart of the fraud. The measure prohibits any person, including real estate licensees and attorneys, from demanding, claiming, charging, collecting or receiving an upfront fee from a borrower in connection with a promise to modify the borrower's residential loan or to do some other form of mortgage loan forbearance. The advance fee prohibition for loan modification and forbearance services applies to residential property containing four or fewer dwelling units.

Furthermore, Senate Bill 94 applies to anyone in California performing loan modification services as well as to those outside of California who offer these services to California consumers. It also mandates any person performing loan modification services for a fee to disclose to the borrower that similar services are available from approved non-profit housing counselors free of charge.

A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from the local HUD office or by visiting www.hud.gov.

Those individuals and entities not in compliance with the provisions of SB 94 should be reported to the Department of Real Estate. Generally, before an individual or company may lawfully perform loan modification services they must obtain a license from the Department of Real Estate or be licensed as an attorney acting within the scope of his or her license. Consumers can get information on how to file a complaint or may check the license status of a company or individual by going to the Department's web site at www.dre.ca.gov.